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The Solicitors' Journal

[REGISTERED AS A NEWSPAPER.]

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ESTATE LATE Mrs. S. E. BODE.

We are in receipt of your letter of the 17th ultimo with the accompanying three letters, in reply to our advertisement, and again have to thank you for your assistance to us in tracing the next-of-kin of the above-named.

L. J. WILLIAMS, Assist. Trust Officer.

PEARSON or PRETOR.—The relatives of CAPTAIN THOMAS HORNER PEARSON, R.N., and Mr. MOTT PEARSON, who were last known to reside at Ewood House, Disraeli-road, Putney, London, S.W., or of their Brother, Mr. J. A. Pearson, are requested to communicate with the undersigned as such Relatives may be interested in the proceeds of Sale of certain Lands at Stogursey, Somerset, which represented the "Samuel Pretor" share under the Will of The Reverend Joseph Cooke, deceased.—J. Ruscombe Poole & Son, Solicitors, 9, Dampiet-street, Bridgwater.

WILL DR. RICHARD DAVIDSON, formerly of Hipperholme, Halifax, Yorkshire, and recently of 2, Coventry-road, Baginton, near Coventry, or any person knowing his present address kindly COMMUNICATE with Box 1, Solicitors' Journal, 29, Breams-bldgs., E.C.4?

CHAPMAN.—The KIN of CHARLES HENRY CHAPMAN, late of 3, Belvedere-crescent, Belvedere-road, Lambeth, London, S.E.1, who died at Lambeth Hospital on the 26th April, 1928, are requested to APPLY to Box 20, Solicitors' Journal, 29, Breams-bldgs., E.C.4.

MRS. MAGARET WEDDERBURN, deceased (late of 25, Beechcroft-road, Bushey, Herts; and formerly of 127, Goldhurst-terrace, South Hampstead; widow of Major-General John Wedderburn.)—Will any person having knowledge of the existence of any WILL of the above lady kindly COMMUNICATE with Box 13, Solicitors' Journal, 29, Breams-buildings, E.C.4.

WILL any Solicitor or other person having in his custody any WILL of HENRY ROBERT ALFORD, late of "The Globe," Seymour-street, St. Pancras, N.W., please communicate with Hanbury, Whitting & Ingle, 62, New Broad-street, E.C.2. A statement has been made that a Will was prepared and signed in Pump-court, Temple.

SYMONS.—The KIN of AMELIA SYMONS, Spinster, late of 7, Trematon-terrace, Mutley, Plymouth, who died at the North Friary Nursing Home, Plymouth, on the 21st March, 1928, are requested to apply to the TREASURY SOLICITOR (B.V.), Storey's-gate, London, S.W.1. (Estate about £700.)

GEORGE BRUTON NEILL, deceased.—The NEXT-OF-KIN of the before-mentioned deceased, who died on the 18th June, 1928, at Birmingham, are required. Any relative or friend knowing the whereabouts of any next-of-kin are requested to COMMUNICATE immediately with "W.S.," Box 40, Solicitors' Journal, 29, Breams-buildings, E.C.4.

LEGAL.—Will any Solicitor or other person having in his custody any testamentary document relating to ADOLPHUS HERMAN LOUIS, of Beaulieu, High Beech, Essex, and trading as Flowerdew & Co., of Temple Bar-chambers, Strand, W.C.2, please communicate immediately with Claremont Haynes & Co., of Vernon House, Bloomsbury-square, W.C.1, Solicitors.

WILL any Solicitor who or whose predecessors acted in any way in connection with the Estate in Mary Rutson, of Holloway, whose Will was proved of April, 1807, or in connection with the Estates of Francis Gigner or Elizabeth Gigner, his Wife, in 1819 or 1820, or in connection with the Estate of their daughter, Elizabeth Fortescue Gigner, or who advised a Mr. Francis Gigner in or about the years 1899 and 1900, communicate with Messrs. Pennington & Son, 64, Lincoln's Inn Fields, W.C.2. Solicitors.

VICTORIA LIMMER (widow), deceased), late of Wimbotsham, Norfolk.—Will anyone having knowledge of a Will executed by the above-named deceased lady please communicate with Reed & Wayman, Solicitors, Downham Market and Kings Lynn, Norfolk.

IF any person has knowledge of a WILL made by Mrs. O. E. SMITH, of 2, St. John's-road, N.1, will they kindly communicate with H. G. Smith, 36, Penn-street, N.1.

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CATHERINE ISABELLA HULL, deceased, late of No. 16, Wellington-square, Hastings.—Will anyone having knowledge of a Will executed by the above-named deceased lady please communicate with "C." Box 1001, c/o Solicitors' Journal, 29, Breams-buildings, E.C.4.

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The Solicitors' Journal

(ESTABLISHED 1857.)

VOL. LXXII. **Saturday, July 28, 1928.** No. 30

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Current Topics.

Court of Appeal and Shorthand Notes.

ON SEVERAL occasions lately the Court of Appeal has reiterated its determination to disallow, as an item of the costs, the expense of taking up a transcript of the shorthand notes of the evidence in the court below, while allowing the transcript of the judgment or that of the summing up in a case tried by a jury. Only last week Lord Justice SCRUTTON, in refusing an application to allow the cost of the transcript in what was called an exceptional case, said that litigation was much too expensive without adding this to the already heavy items. While we fully sympathise with the desire to restrict the expense of litigation as far as possible, is not this exclusion of the right to include in the bill of costs the transcript of the evidence a little unfortunate? It is said, of course, that the judge's notes are sufficient for all practical purposes. In actual fact it is found that they have generally to be supplemented by the shorthand notes, and in any view would it not be wise to relieve the trial judge altogether from the burden of taking a full note, thus leaving him free to observe the demeanour of the witnesses? It is impossible for him adequately to do this if he is required in every case to take a full note of what the witnesses say so that the Court of Appeal may be able to form an opinion on that alone. The time may come when it will be recognised as essential that there should be an official shorthand writer in every court.

Motor Car Offences.

WE HEAR a great deal about overworked magistrates, and practitioners often complain of such congestion in police courts, especially in London, as prevents them from getting lengthy cases dealt with expeditiously. A good deal of congestion is said to be due to the overwhelming lists of summonses against motorists, and it is even suggested that there ought to be special courts for hearing them. We venture to think, however, that this would be unnecessary if a little more discrimination were shown by both police and benches in dealing with this type of case. They are so numerous that they tend to become stereotyped. Summonses are issued as if from one slot in an automatic machine, fines inflicted as if from another. In some districts, outside London mostly, we think, there seems to be a mixture of pride and avarice in swelling the revenues of the court for its contribution to the Road Fund, which leads to penalties that are much greater than those usually inflicted elsewhere. In fact, motor car offences vary in character just as much as other offences. Driving without number plates in an attempt to avoid identification, turning off the lights to avoid detection by a police officer after the commission of an offence, endangering other road users by driving with long worn-out brakes, these and many others are deserving of severe punishment. But to be without a front plate which has just dropped off, to be minus a back light because a defective bulb has given out, which can be replaced at once with a spare bulb carried by the prudent driver, or even to have an inefficient brake which has just gone wrong, these are mild offences because they could neither have been anticipated nor guarded against. We believe some police authorities, and some benches, recognise this distinction, and give effect to it. If it were more generally observed, there would be fewer summonses and the courts would be less congested, without any encouragement to motorists to be reckless. Some of the congestion at the London police courts seems to have already been relieved by the issuing, in first offences of the milder type, of letters of warning in substitution for summons. What police and magistrates alike may well regard as a fit subject for penalties is the careless owner or driver who rarely or never looks over his car to see that lights, identification plates, revenue licence, and, most of all, brakes, are in proper condition.

The Verdict of the Coroner's Jury in the Pace Case.

THE QUESTION has been canvassed whether the verdict in this case as amended by the coroner's jury under pressure by the coroner could be quashed on *certiorari*. The law is well and clearly stated in "Jervis on Coroners," 7th ed., p. 60. "It is peculiarly the province of the jury to investigate and determine the facts of the case; they are neither to expect nor should they be bound by any specific or direct opinion of the coroner upon the whole of the case except so far as regards the verdict which in point of law they ought to find as dependent and contingent upon their conclusion in point of fact." The coroner asked the jury, "are you agreed upon your verdict?" to which the foreman replied, "absolutely" (we quote *The Times*), and proceeded to give a verdict of arsenical poisoning "by some person or persons other than himself," in other words, a verdict of murder by a person or persons unknown. They had determined the facts of the case and given their verdict. Then the coroner proceeded to give a direction that it was necessary to name a person, a necessity established by the Coroners' Act, 1887, s. 4 (3) but only "so far as such particulars have been proved to them." It may be that this condition was not sufficiently emphasised by the coroner, and that the jury treated the coroner's direction as absolute. Thus it may be argued with very considerable force that the "revised" verdict is no verdict at all, and ought to be quashed on the ground that it was based on a misdirection of law by the coroner. Another point under discussion is whether Mrs. PACE should receive compensation from the public purse. She has suffered a trial at the instance of a coroner whom we think

made a mistake, but sooner or later she would probably have had to stand for trial. No one could say there were no circumstances of suspicion, and while one feels the State should pay for the mistakes of its servants, it is highly questionable whether this is a case for compensation.

The New Police Rules.

THE UNANIMOUS censure of the special tribunal on the method of Miss SAVIDGE'S interrogation at Scotland Yard may fairly be mitigated by the observation that the officers concerned merely followed rr. 1 and 9 of the code devised by King's Bench judges "for the information and guidance of the Police." Rule 1 lays down that "there is no objection" to a policeman putting questions to anyone in "endeavouring to discover the author of a crime," and r. 9 prescribes that the deponent shall, when possible, sign a written statement. But if Miss SAVIDGE'S version of what happened was true, as Mr. LEES SMITH believed, there was great and obvious objection both to the questions put to her and the manner of putting them. The perpetrator of r. 1 (using the word to distinguish him from "author," since he associates the latter word with crime) does not appear to have contemplated the possibility of young or ignorant or uneducated persons being asked questions, truthful answers to which might prejudice their moral reputations or credibility. Yet this must happen in a large percentage of cases, especially where questions are asked of an associate of a "wanted" person. Mrs. JONES, the widow of the man murdered by the Frenchman VACQUIER and the latter's mistress, was summoned to Scotland Yard as Miss SAVIDGE was, though her position should have rendered the presence of her own lawyer or of some independent person, preferably a woman, indispensable. The Home Secretary's new rules will bind the Metropolitan Police, and may, but not necessarily must, be followed by the authorities having control of the City of London and County and Borough Police. The suggestion is here respectfully made that the judges' first rule should be recast and enlarged. A certain master at a famous school, taking his confirmation candidates one by one, would ask them: "Well, lad, and what is your besetting sin?" Truthful answers might, or might not, have discovered the authors of offences, but neither police nor pedagogues can properly proceed by such means. In fact the pupils usually confessed to sloth, one of the deadly sins indeed, but, at large, not punishable by the school curriculum.

Death Certificates for the Asking.

UNDER THE above heading we published a note on 2nd January, 1926, vol. 70, p. 254, showing how the law plays into the hands of murderers, especially poisoners, and citing the cases of SEVERINO KLOSOWSKI alias CHAPMAN, NEILL CREAM, SEDDON, and ARMSTRONG in illustration. Since this note was written the Births and Deaths Registration Act, 1926, and the Coroners (Amendment) Act, 1926, have been passed, containing provisions intended to stiffen the law, but, when a leading coroner can discuss the ease with which a body can still be "tucked away underground practically full of arsenic," the kernel of effective reform hardly seems to have been reached. The Births and Deaths Registration Act of 1926, provided for a "prescribed form" of doctor's death certificate, s. 6, and the form prescribed (by the Registrar-General with the concurrence of the Minister of Health) does, in fact, now require the doctor to state when he last saw his patient alive, which was not before necessary. A new regulation also directs the Registrar, if more than fourteen days have elapsed between sight and death, to communicate with the local coroner. The law allowing a doctor to give a death certificate without ascertaining the fact of the subject's death, however, still prevails, and while it does so, abuse will remain possible. Instances have in fact occurred where death certificates have been given in respect of living persons, and, although no case of premature burial may yet have been established, the present law does little or nothing to lessen the risk. To quote our previous note "as things are, we may have to wait until some Cabinet Minister is certified as dead (by some doctor who deems that, if he is not dead, he ought to be), and is not allowed legal recognition otherwise than as a corpse, before the Government frames and passes a bill making this and all other such certificates void." It is no less than thirty-five years ago since the whole matter was exhaustively considered by a Departmental Committee of distinguished persons, whose recommendations, after they had examined many witnesses, have been shelved by successive Governments, largely because the measures recommended, such as the certificate of the independent "*médecin vérificateur*," as prescribed by the French system, would cost money. Yet it seems better to spend a certain amount of money and render poisoners afraid to carry out their plans, which they can now execute with secrecy and success in an unknown but probably considerable number of cases, tempered by an occasional exhumation and expensive murder trial.

Preferential Payments in Debenture-holders' Actions.

THE DECISION of Mr. Justice TOMLIN in *Re Lewis Merthyr Consolidated Collieries, Ltd.* (not yet reported), throws some interesting light on the position, where a company is not being wound up, of the preferential debts enumerated in s. 209 of the Companies (Consolidation) Act, 1908, in relation to assets secured by debentures which create a fixed charge on such assets. Where the company is being wound up, s. 209 is clear; the classes of debts enumerated in s. 209 (1) are preferred to the claims of holders of debentures under a floating charge created by the company, and the preferential debts are not to be paid in preference to debts secured by a fixed charge. Section 107, however, which applies where the company is not being wound up but "a receiver is appointed on behalf of the holders of any debentures of the company secured by a floating charge or possession is taken by or on behalf of those debenture-holders of any property comprised in or subject to the charge," is not so easily construed. It provides that the preferential debts are payable "out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures." It would seem from the language of this section that the preferential debts are payable in priority to the claims of debenture-holders secured by a floating charge, whether that floating charge be the only security or whether there be a further security in the same debenture of a fixed charge on a portion of the assets. The existence of a floating charge is necessary to bring the section into operation; but when it is in operation it does not seem to be limited to one portion only of the assets, or to certain claims only under the debentures. This would seem to be the natural construction of "in priority to any claim for principal or interest in respect of the debentures." There was, however, to be considered the view expressed by Mr. Justice TOMLIN in *Re Glyncorrwg Colliery Co.*, 1926, Ch. 951, that the effect produced by s. 107 is identical with that of s. 209 in the case of winding up. There was, too, the judgment of YOUNGER, J., in *Westminster Corporation* v. *Chapman*, 1916, 1 Ch. 161, which might be read as implying that preferential debts are not payable out of assets subject to a fixed charge. In neither of these cases, however, was the opinion expressed necessary for the decision of the case. The decision of Mr. Justice TOMLIN, therefore, that the preferential debts are not payable out of assets subject to a fixed charge, even though that fixed charge be contained in a debenture which is further secured by a floating charge, is a decision on a point not hitherto covered by any binding authority. The matter, however, is not yet free from difficulty, and it will be interesting to see what opinion will be expressed by the Court of Appeal if and when the question comes before them.

The Book of English Law:*

A REVIEW.

By Professor T. A. Levi, M.A., B.C.L., LL.B.

To enumerate Professor Jenks' contributions to legal literature would require far more space than the limits of a brief review will permit. His "Law and Politics in the Middle Ages," which for many years stood alone in that branch of research; his monograph on the English Justinian; his "History of the Science of Politics," and his "Short History of English Law," are among the books for which the general reader, as well as the lawyer, is indebted to him. This is not to mention the admirable editions of the famous Commentaries, which have done more than anything recently to revive the study of that historic work. A few years ago there appeared from his pen a book of real value to the citizen, a survey of the Government of the British Commonwealth. As an introduction to the study of British ideals of government, illustrated throughout by British history, nothing had appeared quite like this book. No book had shown so directly what British administration stood for, what made it so uniquely successful, so international in character, so easily adapted to all lands and climates. Moreover, no book more accurately forecasts the changes which are forcing themselves on our attention in modern politics, such changes, for example, as are exhibited by the recent conflict of Church and Parliament, of Crown and subject, of the executive and judiciary, of central and local or regional government, and above all, of the home government and of the self-governing dominions. It had always been the wish of the readers of that book that Professor Jenks would deal similarly with English law itself.

Such a book has now appeared, the "Book of English Law," the first really complete presentation of modern English law in a form which every educated man and woman can read and enjoy. In a handsome volume of little more than 400 pages Professor Jenks has given us not merely a portrait, but a living picture, instinct with life and character, of English law as it is to-day. The style of the work is entirely new. It is no bare statement of principles. Nor is it a tedious enumeration of cases, distracting the bewildered reader with the names of strange persons, eternally bracketed together, like Francesca de Rimini and her lover in the shades below. One completely forgets that one is reading what is after all a strictly accurate and carefully arranged presentation of the law. The aim of the author is to enable the general reader, without any technical training, to see the law clearly and to see it whole. By means of carefully selected topics, and a most lucid arrangement, the reader is shown the law in its actual working, the real secret of its greatness, its practical common sense, its strength, its fairness, its reasonableness. Perhaps the most striking feature of the book is that nothing of real importance is omitted; the reader is presented not only with a reliable but a comprehensive view of the law of the country, such as can be found in no other work. This is a feature that will make the book valuable as an introduction to the professional lawyer as well; for by reading it he can be certain that he is viewing all parts of the law in their due proportion. And what an impetus would be given to the comparative study of law if such books were more general! For the essence of British admininstration is shown here.

The book, which in its way is epoch-making, cannot be rightly appreciated unless its real object is constantly borne in mind. The preface makes that clear; "the book now presented is not in the least intended to be useful in the commercial sense of the word, that is, to enable a layman to do his own legal business without the help of professional lawyers . . . The aim of this book is entirely different and much more ambitious. It is to make the lay reader, English and foreign, understand that the rules of English law are at once the unconscious expression of the national mind." In a valuable foreword, Lord Atkin describes the book as a step towards the goal of securing the recognition of some teaching of law as a factor in a general liberal education.

In that foreword Lord Atkin strikes the keynote of the book, that is, the training of the future citizen. We are beginning to revise our conceptions of man and state, and the law or sense of right to which both of them are responsible. The state is a good servant, but a bad master, and the citizen, faced, as he may be, with the right ordering of his several loyalties, revolts against the idea of mere subjection to a transient state. He would, if he could, recover that long-lost ideal of law which preserved it in dark mediæval times; as Roman law was preserved, even when the Roman State had perished; the ideal of law as that which is to be obeyed on the ground of its own intrinsic worth, and not merely because it is set or imposed. We have scarcely realised how greatly the political centre of gravity has changed since the war. The people will no longer trust themselves blindfold to any minister of state, nor even to the repositories of the mysteries of the law. The students who are flocking to our universities, in greater and greater numbers, demand that the law shall be something more than a close and self-centred profession, or a mere means of livelihood. Very soon we shall be extending the franchise to include more than half the entire population, nearly 30,000,000 men and women, who, in the hands of unscrupulous organisers, will possibly have the fate of the country depending on their caprices. Whether that be a forward or a backward movement is a matter of opinion; but it may well be doubted whether our modern system of education is adequate to it. A plant cannot be made to grow by reading a treatise on botany to it; and loyal citizenship, respectful of law and right and justice, respectful also of our own great judges and lawyers of the past, cannot be produced if these new citizens are to have no share or guidance in the building up of that science of jurisprudence which is "the collected reason of the ages." But nothing can be done in the way of reform without the proper book to tell them what this national sense of right means in actual practice, for "without truth, conscience and learning, law is not worth the name."

The book of English law meets that public need far better than any book of its kind we have seen. In no other book can the citizen find, with an accuracy which would please the most fastidious lawyer, a description of our law and procedure, carefully selective, yet which leaves out nothing that really matters, as we have said before. This is the chief merit of the book, that one is enabled to see the whole edifice of the law, shorn of its technicalities, a "living picture or reflection of the working of the English mind as expressed in tradition, statute and judicial decision."

Naturally, much depends on the plan and arrangement adopted for the purpose. The perusal of the contents will show what extreme care has been shown in the planning of the course of lectures on which this book was founded. First, the nature of the law is explained, and why it is obeyed. Its origins and forms are described; the courts of justice, then procedure and administration; there are valuable chapters on the legal profession and the law of evidence. The substantive portions of the law are then set forth; legal personality, corporations, trade unions; the rights and duties of the subject in his individual capacity and in his family relations—a rare chapter in our legal text-books. The book concludes with the various transactions connected with property and contract. To complete the survey of obligations the law of torts is added, according to classical precedent. Practically every branch of the law is thus included, necessarily in summary but always interesting.

Perhaps, in a future edition, more may be said on the nature of law. There must be many who have studied Professor Jenks' inaugural lecture on the sources of the law, and would like to see some of the views expressed there embodied in this

* By Edward Jenks. London: John Murray. xix and 463 pp. 12/- net.

chapter. There are elements in the conception of law other than the idea of order or compulsion: the changes in the idea of sovereignty, the growth of government by public opinion and the relativity of the state, make a fuller treatment of this subject desirable even in an introductory book. We wish, too, that Professor JENKS might be tempted to expand the chapter on the law of evidence, and on advocacy; there is a vast amount of ignorance on this subject among lawyers as well as magistrates, and the growing habit of arbitration and judicial inquiry calls for a better understanding of this difficult but vital subject. Perhaps it may be possible to deal with contracts (which in a modern book might be divorced from torts) in an earlier part of the work, proportionate to its increasing importance in the life of the present day.

It may be said at once and without hesitation, this is a book that ought to be in the hands of every intending lawyer, magistrate, public servant and every serious student of our public administration. It would save many a law student from committing those errors which every student knows: errors very easily committed by everybody, perhaps due to over-specialisation in one subject and neglect of the other, and sometimes more urgent branches of the law. We know, indeed, of no book better suited as a general introduction to the law to be placed in the hands of the beginner. Every teacher of law, especially a teacher brought into contact with students of history, economics and political science, will find it simply invaluable. And its racy, readable, attractive style, having the advantages of a book about law without the disadvantages of a so-called law-book, will commend it to the general reader. In the concluding words of Lord ATKIN: "Though the book cannot be guaranteed to make its reader a better citizen, it can be guaranteed to make him better equipped to be a good citizen." And since to know the law is to respect it, and to be anxious to improve it, there are many who will say that a book like this will even make its reader a better and more loyal citizen.

Adoption of Children Act, 1926.

EFFECT OF AN ADOPTION ORDER UPON AN AFFILIATION ORDER OR BASTARDY AGREEMENT.

BEFORE the passing of the Adoption Act, the law of this country decreed that, not only were the rights, liabilities and duties of the parents of legitimate children inalienable by any act of the parents themselves, but those of the mothers of illegitimate children were similarly inalienable. (Introduction to "Clarke Hall's Law of Adoption.")

By s. 8 of the Adoption of Children Act, 1926, the High Court, a county court or a court of summary jurisdiction, were authorised to make adoption orders. Section 5 (1) provides that upon an adoption order being made, all *rights*, duties, obligations and liabilities of the parent or parents, guardian or guardians of the adopted child, in relation to the future custody, *maintenance* and education of the adopted child, including all rights to appoint a guardian or to consent or give notice of dissent to marriage, shall be extinguished, and all such rights, duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopter as though the adopted child were a child born to the adopter in lawful wedlock, and in respect of the same matters and in respect of the liability of a child to maintain its parents, the adopted child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock.

This sub-section clearly throws upon the adopted child the possible liability under the poor law to maintain the adopter as if he were his lawful parent, and very properly the Act requires the appointment of a guardian *ad litem* whose duties include safeguarding the interests of the infant. One of the questions the guardian *ad litem* has to consider is the probability of the proposed adopter having to seek poor law relief at the time when the infant is old enough to work.

Section 9 provides that it shall not be lawful for any adopter or for any parent or guardian, except with the sanction of the court, to receive any payment or other reward in consideration of the adoption of any infant under this Act, or for any person to make or give, or agree to make or give, to any adopter, or to any parent, or guardian, any such payment or reward.

It was at once seen that a difficult question arose as to the effect of sub-s. (1) of s. 5, upon an affiliation order or bastardy agreement made or entered into before the date when the adoption order was made. Various views were held upon the subject. Some persons were of opinion that upon the making of the adoption order, an affiliation order ceased to have effect. Others, that though the mother's rights under the affiliation order were extinguished, the liability of the putative father was not extinguished. Others again held that the affiliation order was not affected.

By the Bastardy Laws Amendment Act, 1872, s. 7, where a bastard child becomes chargeable to any parish or union two justices may appoint some relieving officer or other officer of the place to receive and recover any payments due under an affiliation order. The Affiliation Orders Act, 1914, s. 4, provides that notwithstanding anything in this or any other Act, an affiliation order may, on the application of the person for the time being having the custody of the child, either legally or by an arrangement approved by the court, be made or varied by a court of summary jurisdiction so as to provide that the payments to be made thereunder shall be made to that person. And s. 30 (3) of the Criminal Justice Administration Act, 1914, provides that any order made, either before or after the commencement of this Act, by a court of summary jurisdiction for the periodical payment of money may, upon cause being shown upon fresh evidence to the satisfaction of the court, be revoked, revived or varied by a subsequent order.

On the 30th April last, the case of *Brown* v. *Freeman* was heard by the Divisional Court, consisting of BRANSON, J., and MACKINNON, J. By an indenture dated the 3rd August, 1922, BROWN had covenanted to pay FREEMAN the sum of 7s. weekly to be applied for the maintenance and support of her child of whom she alleged BROWN to be the father. On the 25th August, 1927, a court of summary jurisdiction sitting at Chester-le-Street made an order authorising a Mr. SKINNER to adopt this child. On the 27th January, 1928, a plaint was heard in the West Hartlepool County Court in which FREEMAN claimed from BROWN the sum of £18 7s. 6d. under the deed of the 3rd August, 1922. The sum of £10 10s. 6d. being arrears due up to the 25th August, 1927, the date of the adoption order, was admitted, but the liability of BROWN to pay after that date was contested.

The county court judge delivered the following judgment: I am told that BROWN was served with a notice as a respondent to the adoption proceedings, but the deed was not before the court. Section 9 prohibits any payment "in consideration of the adoption" without the sanction of the court, but payments under an existing affiliation order would not appear to come under this description. They are not made "in consideration of the adoption." Equally payments made in lieu of an affiliation order or in consideration of an application for an affiliation order not being made, cannot be said to be made in consideration of the adoption. I think it would have been proper for the court to have awarded the adopter the proceeds of this payment just as it might have awarded him the payments under an affiliation order. It has not done so, nor had an opportunity of doing so. Quite clearly s. 5 was not intended to deprive the child of any rights it might have prior to the adoption. No doubt it transfers the liabilities of the parent or parents to the adopter. But the deed was not one solely for the benefit of the child. BROWN obtained and still obtains advantages from FREEMAN'S covenants. By the adoption FREEMAN has not deprived the infant of proper and sufficient food, clothing and medical attendance. She has secured it as BROWN'S defaulting payments never secured it. She has made it impossible to bring those affiliation proceedings

she covenanted not to bring. She has made his molestation or disturbance less probable than ever, and has certainly not given the child his surname, and has made any publication of the paternity of the child impossible. I agree that BROWN agreed to make his payments on these considerations for the benefit of the child. Why should they cease to be so? One cannot blind oneself to the circumstances. Mr. SKINNER has adopted the child, but FREEMAN is his housekeeper in daily touch with the child. She is no longer responsible for its maintenance, but she is not precluded from spending these moneys for the benefit of the child. After all, she is its mother. Why should the real father escape his obligations because the mother has been so fortunate as to find a Mr. SKINNER to make her burden a less onerous one? Why should he escape because his child and its mother are no longer so dependent on his payments. He found for FREEMAN for £14 0s. 6d., in which was included £3 10s. for arrears accrued due since the date of the adoption order and costs, and granted leave to appeal.

The county court judge appears to have been wrong in stating that the court that made the adoption order might have awarded the proceeds of the payments under the deed to the adopter as that court had no jurisdiction over a private deed, the Affiliation Orders Act, 1914, s. 3, only applying to affiliation orders. It is a little difficult to see what right of action a child has under a deed to which it is not a party. Moreover, s. 5 (1) does extinguish certain "rights" as well as liabilities. If such liabilities are transferred to the adopter, so are "all such rights."

On the 30th April, 1928, BROWN appealed to the Divisional court against this judgment. Mr. H. I. J. HALLETT, counsel for the appellant, based the appeal on three grounds: First, that by reason of her consent to the adoption order, FREEMAN had taken away the substratum of the agreement, which could no longer be enforced. Secondly, that s. 5 (1) had extinguished FREEMAN'S rights in relation to the future maintenance of the adopted child. And thirdly, that the deed of the 3rd August, 1922, provided that upon any breach of any of the covenants on the part of FREEMAN, the payments should cease to be payable, and that that deed recited that FREEMAN had agreed to retain the custody of the child. That by the adoption order, she had not retained the legal custody or remained legally liable to maintain the child.

Mr. GILBERT BEYFUS, counsel for the respondent, quoted *Sotheron* v. *Scott*, 1881, 6 Q.B.D. 518, which shows that a married woman can enforce her bastardy order obtained before marriage, not withstanding that by marrying her, her husband has become liable for the maintenance of this child of hers.

BRANSON, J., in dismissing the appeal, held that the recital as to custody did not so clearly relate to legal custody as to make him say that FREEMAN'S consenting to an adoption was a breach of a covenant in the deed. That FREEMAN'S obligation under the deed to provide for the child's maintenance remained or at least BROWN'S right to an indemnity in respect thereof thereunder. That FREEMAN remained under the obligations imposed by the deed not to molest BROWN, etc,. and therefore the substratum of the deed was not gone. He did not propose to discuss the meaning of s. 5 (1) as it did not arise. MACKINNON, J., concurred.

By parity of reasoning, this case will also apply to an affiliation order, and accordingly the mother will have the right to enforce the affiliation order she may have obtained before the date when the adoption order was made in respect of her child, and will be entitled to the benefit of those payments notwithstanding that she is no longer maintaining the child. In that event, the father's remedy is to apply to a court of summary jurisdiction under s. 30 (3) of the Criminal Justice Administration Act, 1914, for an order revoking the affiliation order, but he may be met by an application by the adopter for an order under the Affiliation Orders Act, 1914, that the payments thereunder be made payable to him.

A Conveyancer's Diary.

Power for Trustees to invest in Government Securities.

It was pointed out recently in the financial columns of one of the daily papers that the return on Consols was so low because there were many old trusts still in existence under which it was forbidden to invest in any securities other than Consols. The observation instantly raises the question, how far an express limitation of the range of investments to Consols only is binding upon trustees?

The Trustee Act, 1925, s. 1 (1) (*a*), enacts that a trustee may invest any trust funds in any of the parliamentary stocks or public funds or Government securities of the United Kingdom. The powers of investment conferred by the Trustee Act generally apply "if and so far only as a contrary intention is not expressed in the trust instrument and have effect subject to the terms of that instrument": *ib.*, s. 69 (2). Hence, *prima facie*, the restriction under the trust instrument of the field of investment to Consols is binding upon trustees.

But the National Debt (Conversion) Act, 1888, s. 27, enacted that trustees holding stock thereby converted or exchanged might sell the same and invest the proceeds in any of the securities for the time being authorised for the investment of cash under the control of the High Court "notwithstanding anything to the contrary contained in the instrument creating the trust."

Again, trustees and other persons acting in a fiduciary capacity were authorised by the War Loan (Trustees) Act, 1915, to invest in securities created under the War Loan Act, 1915. And the Finance Act, 1917, s. 35, after declaring that it is lawful, and is to be deemed always to have been lawful, for a trustee to borrow for the purpose of subscribing to or investing in any Government securities issued in connexion with the late war, authorises trustees and other persons acting in a fiduciary character "to exercise, without the consent of any other person, such powers of borrowing, subscription, investment . . . notwithstanding anything in any instrument creating the trust." Both the above provisions enabled trustees not only to borrow for subscription on investment in War Loan, but also actually to subscribe and invest: *Re Head*, 1919, 88 L.J., Ch. 236, 238. Their net effect may be said to be to authorise trustees to invest in securities raised for the purposes of the late war notwithstanding any prohibition or restriction contained in the trust instrument.

In *Re Head*, *supra*, Sargant, J., suggests that their effect is to remove any express prohibition against investment in Government securities: "It seems to me," he said (*ib.*, at p. 238), "that if the section [i.e., s. 35, *supra* removes, as I think it does, any express prohibition against investmemt in Government securities . . . " That, however, seems to be placing rather a wide construction upon the words even of the wider of the two statutes, which is expressed to apply to any Government loan raised "for the purpose of the present war."

However, a restriction in a trust instrument of the range of authorised investments to Consols at any rate does not exclude the trustee's power to invest in war securities.

Capital Money under the S.L.A., 1925.

The position as respects investment in Government securities of capital money arising under the S.L.A., 1925, is somewhat different. Section 73 (1) of that Act directs that such capital money is to be invested in a large class of securities the first among which is Government securities. Every investment or other application of capital money must be made by the direction of the tenant for life: S.L.A., 1925, s. 75 (2) (3). Section 106 renders void any prohibition or limitation of the statutory powers of a tenant for life or statutory owner. Hence, any express limitation of the range of investment of capital money within the classes of securities authorised by the S.L.A., 1925, can be ignored, save, possibly, in so far as the securities are authorised by reference to the

Trustee Act. Thus a provision in a trust instrument that capital money was only to be invested in Consols, would at least not restrict the tenant for life in his choice of other Government securities raised for the purposes of the war.

Accordingly, those trustees who confine their investments as directed by their trust instruments to Consols are not legally bound to do so. Their range of investment is not as narrow as it would at first sight appear.

A provision in a Finance Act making all prohibitions or restrictions on the powers of trustees to invest in Government securities generally might serve a useful purpose.

Landlord and Tenant Notebook.

Claim for New Lease under s. 5 of the Landlord and Tenant Act, 1927— *continued.*

We considered in our last issue (*ante*, p. 497) the question whether it was essential in order to be entitled to claim a new lease to prove that such compensation for goodwill as might be awarded in respect of the premises would in any event be substantial in amount, and we expressed the opinion that a person might be entitled to a new lease irrespective of the amount of the compensation that could be awarded him under s. 4 of the Act.

A further matter in connexion with a new lease which we intend to consider here is whether a claim for a new lease bars a tenant from subsequently claiming compensation.

With regard to the first point, s. 5 provides that "Where the tenant alleges that, though he would be entitled to compensation under s. 4, the sum which could be awarded him . . . would not compensate him . . . he may *in lieu of claiming such compensation* at any time within the period allowed for making a claim under (s. 4) *serve on the landlord notice requiring a new lease* . . ."

On one construction of the above section it may be said that the section makes the right to a new lease alternative to the right to compensation in the sense that it gives a right to an election which, once exercised, will be binding, and that, therefore, once the tenant claims a new lease his right to compensation will be entirely lost unless there is still an interval of time before the expiry of the last day of serving the requisite notice within which he might cancel his notice claiming a new lease and claim compensation instead.

And the provisions of s. 5 (2), to the effect that the tribunal may award compensation to a tenant claiming a new lease where the new lease is refused on the grounds mentioned in para. (*b*) of sub-s. (3) of s. 5, lends some support to the above view, since it may be argued that there would be no reason for inserting such a provision if the tenant could proceed with his claim for compensation in the event of his failing to obtain an order for a new lease; and, indeed, this appears to amount to a formidable argument in favour of the view that a claim for a new lease bars a subsequent claim for compensation, except perhaps in the circumstances referred to above.

To examine now the argument in favour of the opposite view. One may begin by admitting that in no circumstances can there be any claim for compensation unless the tenant has complied with the condition precedent laid down by the Act, and served the requisite notice claiming compensation within the prescribed time (cf. s. 4 (1) of the Act). In some cases, therefore, where a new lease has been claimed there may have been no specific claim for compensation in the event of the new lease not being granted so that in such cases a claim for compensation (apart from s. 5 (2)) must necessarily fail for want of compliance with the above condition.

Assuming, however, that a claim for compensation in the alternative has been duly made, does s. 5 (1) prevent the tenant claiming compensation in the event of his claiming a new lease?

Looking at the object of the Act as a whole, and in particular at the fact that the Act gives a tenant something better than compensation (i.e., a new lease in cases where the compensation that may be awarded under the Act will not adequately compensate the tenant), it is inconceivable that the intention of the Act is to penalise a tenant who might otherwise have been entitled to compensation if he seeks to obtain a new lease, but fails in his attempt. Furthermore, the provisions of s. 5 (1) and (2) may be reconciled with the above view if s. 5 (1) is interpreted as meaning merely that the right to a new lease and to compensation are not cumulative, and s. 5 (2), as being intended to prevent multiplicity of proceedings by empowering the court to grant compensation where a new lease is refused in the circumstances there mentioned.

Practice Notes.

TRUSTEES AND INCOME TAX.

THE question frequently arises in practice whether trustees carrying on a trade on behalf of beneficiaries are entitled to earned income relief as a deduction from the computation of assessable profits for income tax purposes. There is no doubt now that where the beneficiaries are not the same persons as the trustees, or where, being the same persons, they take no active part in the business, no allowance is due. This follows directly from the wording of the section defining earned income as "income . . . immediately derived from the individual from the carrying on by him of his trade, etc." This was tested in the case of *Fry* v. *Shiel's Trustees*, 6 T.C. 583, where the trustees carried on the business on behalf of minors, and was held to be the correct view. There is, however, much to be said for the case where the beneficiary is also a trustee and takes an active part in the business. It is true that the fact of the trust intervenes so that the income cannot be said to be directly derived from the exercise of the trade to the beneficiary. Further, it appears that there is a variation in practice as between inspectors of taxes, and that, in some cases, they are prepared to grant the equitable relief, even if it is not free from doubt in law. Such a position is unsatisfactory that an allowance should be dependent upon the personal feeling of the official and the anomaly would be removed by the admission in all cases where the beneficiary is actively engaged in the business that he is entitled to earned income relief upon the whole of his receipts therefrom. In any case, it must be remembered that there is no question that as respects the salary a trustee draws from the business, as apart from the profits, he is entitled to earned income relief whether he is a beneficiary or not.

Correspondence.

Points in Practice.

Sir,—I am very grateful to you and to the writer of the answer to the "Points in Practice" query which I submitted to you a few days ago.

The answer given, in addition to confirming that my contention is the right one, has the very worthy merit of showing me how to avoid a great deal of routine work which I thought was absolutely necessary.

I must again record my appreciation of the service rendered by you.

Whitley Bay. ALBERT BRIGGS.
26th June.

MARRIAGE SETTLEMENTS.

It may interest the profession to know that draft forms of Marriage Settlements, settled by Sir Benjamin Cherry, LL.B., are now on sale. They are published by The Solicitors' Law Stationery Society, Limited, 22, Chancery Lane, W.C.2, and branches.

Our County Court Letter.

INJURIES TO HARVESTERS.

THE above may give rise to difficult questions by reason of the casual nature of the employment. In the recent case of *Westwood* v. *James*, at West Bromwich County Court, an award under the Workmen's Compensation Acts was claimed in the following circumstances: The applicant was a labourer who for eight months had been following a threshing machine owned by the respondent, but having sustained an injury to his knee, the applicant had been prevented from working since the accident. The procedure adopted by the respondent was to ask the farmer how many men he would want, and if the number of men accompanying the machine was in excess of requirements, those not selected for employment had to go away. The wages of those engaged, however, were paid by the farmer, and the latter also stamped their insurance cards where necessary. His Honour Judge TEBBS held that the applicant was a casual labourer employed by the farmers, and not in any sense by the respondent, and the application was accordingly dismissed.

The Workmen's Compensation Act, 1925, s. 6 (1), lays down that the principal shall be liable to pay compensation to workmen employed by a contractor, but there is a proviso that where the contract relates to threshing, ploughing or other agricultural work, and the contractor provides and uses machinery driven by mechanical power for the purpose of such work, he and he alone shall be liable to pay compensation to any workmen employed by him on such work. The proviso guards against the possibility of a farmer being a man of straw, in the monetary sense, and is apparently based on the assumption that owners of travelling agricultural machinery are in a better financial position than their customers. It is to be noted, however, that the contractor must "provide and use" the machinery, so that if he only uses machinery provided by the farmer, the case is governed by s. 6 (1) above, and the farmer will remain liable as the principal for injuries to his contractor's workmen. A further distinction is that the proviso only imposes liability on the contractor in respect of his own workmen, so that if a farm hand is injured by themachinery, the farmer alone will be liable.

The proviso relates only to mechanical power, the definition of which was considered in *Wrigley* v. *Bagley and Wright*, 1901, 1 Q.B. 780. The respondents had employed a firm of engineers to instal a new driving wheel on a steam engine in their cotton spinning factory. A hand-winch and pulleys were used for the purpose of lifting the new driving wheel into its place, and the engineers' foreman was killed by an accident during that operation. His widow claimed an award against the employers and against the owners of the factory, but the county court judge at Oldham held that the above was not engineering work under the Act of 1897, the machinery not being "driven by steam, water or other mechanical power" within s. 7 (2). The Court of Appeal upheld the decision on another ground, the point as to mechanical power not being argued. In *Wilmot* v. *Paton*, 1902, 1 K.B., the Court of Appeal held that premises in which machinery is set in motion and kept in motion by hand-power only, were not premises in which mechanical power is used within the Factory and Workshops Act. The use of such machinery therefore did not constitute the premises a factory within the meaning of the Workmen's Compensation Act, 1897, s. 7. The last-named decision only refers to machinery kept in motion by hand, and even if the power is increased by cog-wheels and pulleys, it still remains hand power. Where, however, the machinery is started by hand, but is afterwards kept in motion by steam, electricity or a hydraulic system, this is mechanical power within the meaning of the proviso.

Reviews.

The Law Quarterly Review. Vol. XLIV. No. 175. July, 1928. Edited by A. L. GOODHART. pp. 267-400. Stevens and Sons, Ltd. 6s. net. (Annual Subscription (post free) 20s.)

The current number of the "Law Quarterly" is really admirable, and it is on that account that we would draw our readers' attention to it. The notes are varied and instructive, though we cannot agree with the method of treatment and conclusions arrived at in one or two of them. Thus, in the note (p. 272) on *Re Bridgett & Hayes*, 1928, 1 Ch. 163, the real difficulty raised by that decision is not referred to, but on the contrary, a difficulty supposed to arise from the application of s. 17 of the S.L.A., 1925, is discussed. Now, s. 17 only applies where a vesting deed has been executed (there had been no such deed in *Re Bridgett & Hayes*), and is obviously not intended to apply, except in cases where the settlement comes to an end while the land is still vested in the tenant for life as trustee-estate-owner.

The inaugural lecture delivered by Professor Winfield as Rouse Ball Professor of English Law, at Cambridge, is, at the same time learned, interesting and stimulating. It bears the title "Law Reform," and contains a critical, thought-provoking survey of three fields of reform, namely, the substance, the form, and the teaching of our law. The Gale Professor of Roman Law at McGill makes a valuable contribution on "*Matrimonium Juris Gentium.*" Professor Jenks' most readable article on "Recent Changes in Family Law" contains some caustic comments on the family legislation of 1925-26, and the Downing Professor of Law at Cambridge reviews at length the *Liber Pauperum of Vacarius*, edited for the Selden Society by Professor de Zulueta. An article by Mr. A. C. Wright on French Criminal Procedure and a joint contribution by Professor Felix Frankfurter and Mr. Nathan Greene on The Use of the Injunction in American Labour Controversies add to the variety and interest of this excellent issue.

Books Received.

The Scottish Law Review and Reports of Cases in the Sheriff Courts of Scotland. Vol. 44. No. 523. July, 1928. Glasgow: Wm. Hodge & Co., Ltd., 34/36, North Frederick-street. Edinburgh: 12, Bank-street. Aberdeen: D. Wylie and Son. Dundee: D. Winter & Son. 2s. 6d. net.

Isalpa. The Monthly Journal of The Incorporated Society of Auctioneers' and Landed Property Agents. Vol. II. No. 19. July, 1928. 26A, Finsbury-square, E.C.2. 3s. 6d. per annum (post free).

The Poor Law Statutes (Annotated). Being the Consolidation Poor Law Act of 1927 (as recently amended), and other Enactments relating to the Powers and Duties of the Poor Law Authorities and their Officers, with copious references and decided Cases and full explanatory Notes. HERBERT DAVEY and ALFRED J. SMITH, Barristers-at-Law. pp. xxxvi and 463 (with Index). 1928. Stevens & Sons, Ltd. £1 5s. net.

Tax Cases. Vol. XIII. Part II. Reported under the direction of the Board of Inland Revenue. H.M. Stationery Office. 1s. net.

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POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered gratis. All questions should be typewritten (in duplicate), addressed to—The Assistant Editor, 29, Breams Buildings, E.C.4, and should contain the name and address of the subscriber. In matters of urgency, answers will be forwarded by post if a stamped addressed envelope is enclosed. No responsibility is accepted for the accuracy or otherwise of the replies given.

Trust for Sale—Duration—Conveyance by Direction of Persons entitled to Proceeds.

Q. 1334. A died leaving a will by which he appointed B and C executors and trustees for sale, with directions for payment of the income of his estate to his wife during her life and after her death in trust as to capital and income for his children then living. B died leaving C sole executor and trustee. C died intestate and grant of administration of his estate has been issued to D. Can D as trustee of A's will pass his legal estate to a purchaser provided that the persons entitled to the proceeds of sale of the property join in the assurance to the purchaser and give a receipt for the purchase money? Section 18 of the T.A. appears to be applicable.

A. We consider that a satisfactory title can be made in the manner suggested. An unwilling purchaser cannot, however, be forced to accept such a title (L.P.A., 1925, s. 42 (1)). The conveyance by the trustee should be expressed to be made under the direction of the persons interested in the proceeds of sale (L.P.A.,1925, s. 23).

Private Company—Infant Holding Shares.

Q. 1335. A and B are turning a partnership business into a private limited company. A has infant children and wishes to place some of his shares in the names of his wife, and also of his infant children. (*a*) Can some of the shares be allotted to these children? (*b*) If A took up shares could he transfer part of the same to such children? How would the transactions be carried out?

A. While an infant may hold shares, there are always difficulties liable to start up, at all events if the shares are not fully paid. Thus, in *In re Crewer & Wheal, &c., Mining Co.*, L.R. 8 Ch. 45, a director who allotted shares to his infant son was held guilty of misfeasance. Moreover a company cannot be compelled to accept an infant transferee. If this is not likely to occur, A should take up the shares and then transfer part to the infant children.

Intestacy—Persons Legitimated under the Legitimacy Act, 1926—Whether Taking.

Q. 1336. A, a spinster, died domiciled in America (New York), in May, 1927, intestate, leaving real and personal estate. The American administrator informs me of his intention to divide the estate equally amongst the following, who are the nearest relatives and all of whom are domiciled in England: (1) The first cousins of A on the paternal side; (2) The first cousins of A on the maternal side; (3) The issue of such of the first cousins aforesaid who pre-deceased A. In regard to (1) a certain number of these cousins are the issue of X, who was born out of wedlock. X's parents subsequently married, and X died many years ago. Will you kindly inform me whether the maternal first cousins are equally entitled with the paternal first cousins, whether the issue of the predeceased first cousins are entitled to their parents' share, and whether the issue of X (X was not living at the date of the Legitimacy Act, 1926, and his parents domiciled in England died long ago) are in any way entitled?

A. The distribution on intestacy of personalty is regulated by domicil: see "Westlake," 7th ed., p. 151; and in the above case therefore depends on the law of New York. That law cannot be expounded here, but if X's children are legitimated by our law by the Act of 1926, taking effect before the death of A, it seems certain, in accordance with international courtesy, that the State law would recognise our legitimation as our law has done in similar circumstances: see *Re Goodman's Trusts*, 1881, 17 C.D. 266; and for a gift under a will, *Re Andros*, 1883, 24 C.D. 637. There is no such convention in respect of realty: see *Birtwhistle* v. *Vardill*, 1840, 7 Cl. & F. 895—an authority, however, not generally approved in America. If any of the realty is in England, X's children will be entitled if legitimated, see Legitimacy Act, 1926, s. 3 (1) (*a*). The English administrator, however, would, no doubt, require to be fully satisfied that s. 1 (1) and (2) of the Act were satisfied.

Joint Tenants—Husband and Wife—Death of Husband—Title.

Q. 1337. In 1922 A and B (husband and wife) purchased freehold property, the conveyance being to them as joint tenants, and in fact a true joint tenancy has always existed. A has recently died intestate and apart from the property above referred to his estate is insolvent. Is any part of the property included in the joint tenancy liable for payment of debts, funeral and testamentary expenses? Please quote authorities.

A. The wife is now solely entitled to the property and can sell and make title, see "Everyday Points in Practice, Cases 8, 9 and 11, pp. 3 and 4. But half the rent accrued and owing at the date of the death of the husband is included in his estate under the Apportionment Act, 1870, and is therefore available for the payment of debts, funeral and testamentary expenses.

The Small Holdings Act, 1926—Breach of Condition—Notice to Quit.

Q. 1338. A county council, in letting its small holdings, uses the form of tenancy agreement set out in the Appendix to the Model Rules of the Ministry of Agriculture and Fisheries as to small holdings. That form provides that "the tenancy may be determined by the council at the expiration of any year of the tenancy by [twelve calendar months] previous notice in writing . . . if any condition or term of the letting is broken and the tenant does not remedy the breach (if capable of remedy) after an opportunity of doing so has been given him by the council." The Small Holdings and Allotments Act, 1926, s. 6 (4), provides that if any condition or term of the letting of a small holding is broken, the county council may, after giving the tenant an opportunity of remedying the breach (if capable of remedy), determine the tenancy. Has the county council power, on breach of a condition or term of the letting and failure by the tenant to remedy the same, to enter and take possession of the holding and eject the tenant therefrom without previous notice (*a*) where the tenancy agreement contains the clause mentioned above, and (*b*) where the agreement contains no clause as to re-entry on breach of the conditions or terms of the letting? If it is considered that notice of re-entry should be given, what should be the length of such notice, apart from agreement, and should it be specified to take effect on any particular date?

A. The form of tenancy agreement contained in the Appendix to the Model Rules of the Ministry of Agriculture and Fisheries as to small holdings itself supplies the answer. Condition (*l*) of that form provides (*inter alia*) "the tenancy may be determined by the council at the expiration of any year of the tenancy by [twelve calendar months] previous notice in writing . . . (3) if any condition or term of the

letting is broken and the tenant does not remedy the breach (if capable of remedy) after an opportunity of doing so has been given him by the council." So that the council have no power to enter and take possession of the holding and eject the tenant therefrom without previous notice in either of the circumstances indicated.

Limited Company—Exchange of Share Certificates.

Q. 1339. The holder of a certificate for 1,000 fully paid-up £1 shares in a private limited company, to which cl. 6 of Table A applies unaltered, wishes to exchange same for two certificates for 500 shares each, in order to avoid the necessity for depositing as security the evidence of his entire holding should it be necessary to do so. The Memorandum and Articles of Association contain no provision on the point. Nothing can be found in any of the standard works authorising such an exchange, although, apparently, the directors might have permitted the issue of separate certificates in the first instance. The directors are willing to comply with the shareholder's request if they can legally do so. Is there any means by which this may be done other than by a transfer of part of the holding ?

A. If the company, acting through its directors, are willing to substitute two certificates of 500 shares each for one of 1,000, and protects itself by seeing that the first certificate is handed in and cancelled, and the register of shareholders is rectified, it can do so if there is nothing in its articles which expressly forbids. Here Art. 6 of Table A does not forbid. That merely provides that a shareholder is entitled to a certificate, free of cost, and that where shares are held jointly there is no legal obligation on the company to supply more than a single certificate. It does not curb the will of the company to issue a separate certificate for every share if it is so minded. As Gore Browne says, "the usual and more convenient practice is to include in one certificate all the shares held by a member." That is all. A certificate is meant to facilitate dealings in shares upon the markets, and to provide immediate *primâ facie* evidence that the holder of the certificate has a title to the shares—whether he wants to pledge or sell them. (See Lord Selborne in *Société Generale de Paris* v. *Walker*, 11 App. Cases 20, 29.) But, of course, the company are not obliged to issue share certificates in such numbers as to secure the maximum of marketing facilities for the shareholders. That is in their discretion.

Appointment of New Trustees—Costs.

Q. 1340. The sole surviving trustee of an estate dies. The estate cannot be distributed as there is a tenant for life of part of the property still living. The executor of the deceased trustee does not wish to take on the office himself, and appoints two additional trustees under the power given him by s. 36 of the T.A., 1925. What fund is liable for the costs of the appointment ? The income payable to the tenant for life, the *corpus* of the estate, or the estate of the executor himself ?

A. The ordinary rule is that the costs are payable out of the trust capital (see "Strachan's Law of Trust Accounts," Art. 37, and cases there cited). If part of the estate is settled and part unsettled, the costs of a deed appointing new trustees of the whole estate may properly be apportioned between the two parts of the estate: *In re Grant*, 2 J. & H. 764. The simplest way is to take half from the settled and half from the unsettled estate. The costs of a vesting deed will naturally be charged to the *corpus* of the settled land.

Mortgage to Trustees—Bankruptcy of Mortgagor—Possession by Mortgagees—Arrears of Interest—Business of Mortgaged Premises carried on—Disbursements by Tenant for Life—Apportionment of Profits between Capital and Income.

1341. *Q.* Some years ago a sum of £6,000 was advanced by trustees on the security of freehold land with glass-houses thereon whereon a nurseryman's business is carried on. The interest fell into arrear, and some few months ago the borrower filed his petition in bankruptcy. Thereupon the trustees gave notice to the Official Receiver and entered into possession. The mortgage debt actually forms part of the funds of a settlement under which A.B. is tenant for life, and although the trustees nominally took possession, actual possession was taken by A.B., who resides near the premises. A.B. has actually superintended the management of the business and the profits have been paid into A.B.'s account. A.B. also, in order to carry on the business, purchased from the trustee in bankruptcy the stock-in-trade, movable plant, etc., and has paid for it out of his own moneys. The freehold premises, stock-in-trade, etc., have now been sold by the trustees as a going concern for £3,000, and the question has arisen as to how the purchase money and profits are to be apportioned as between capital and income. A.B. is clearly entitled to be repaid the sum he has paid for the stock-in-trade, but also claims to be entitled to the net profits of the business while in possession. The trustees, however, think that A.B. is only entitled to interest on the mortgage debt (including arrears) to date of sale and that any profits in excess of this amount must be treated as capital. Which is correct ?

A. The answer here given is that the contention of the trustees is correct, save that A.B. would appear to be entitled to an apportionment of the net profits of the business between capital and income upon the principle laid down in *In re Earl of Chesterfield's Trusts*, 1924, Ch.D. 643. See also *Rowls* v. *Bebb*, 1900, 2 Ch. 107, and *In re Baker*, 1924, 2 Ch. 271.

Vendor and Purchaser—Informal Memorandum of Sale—Recovery of Deposit.

Q. 1342. P verbally agreed to purchase a house from V, and on 2nd March, 1928, paid a deposit, V giving her a receipt for "deposit on freehold house," naming it and saying nothing else. A road, which has only just been formed and is not yet made up and taken over, abuts on the side of the premises and before P agreed to purchase she (her husband being present) asked V as to the road-making charges, he replying that they would be about £11 10s. Subsequently, V's solicitors sent P's solicitors a draft contract and plan from which it appears that the frontage of the premises to the side road is 111 feet 6 inches, with a 10-foot passage in the rear, and it has been ascertained that the road-making charges will be probably about £1 per foot. It is understood that there are seven plots (two of which are the subject of the proposed contract) fronting to the *main* road, and that the owners of the remaining five plots have in their conveyances agreed to pay their proportionate part of the cost of making up the said side road, and that all seven owners have the right to use the 10-foot passage, and therefore, should P purchase, she would be liable to the corporation for, say, £121 10s., and would have to obtain payment from the other five owners of their proportion and as this in some cases or case might lead to litigation, P has been advised not to proceed with the matter, and on V's solicitors having been informed as to this, they replied that their client denied having made any statement which in any way affected the sale or purchase of the property, and as there was in existence an open contract, and P did not desire to proceed, V would retain the deposit and they subsequently wrote that if P did not intend to proceed, V would re-sell the property and retain the deposit, the reply to that being that P was not prepared to proceed with the preliminary contract, and that unless the deposit was returned within fourteen days proceedings would be taken to recover it. Now, it seems to me, that two points arise :—

(1) That V's solicitors, although writing about an open contract, submitted a draft contract for approval, and therefore should there be any conflict of evidence in the event of litigation it would almost seem that P would have to complete with the liability to pay such road-making charges and have the trouble of obtaining (successfully or otherwise) payment from the other five parties of their proportionate shares.

(2) If the court believed the evidence of P and her husband as to the statements made by V, could she not recover the deposit and not proceed with the purchase, which she prefers to do in the circumstances before mentioned ?

A. The receipt is obviously not a memorandum sufficient to satisfy s. 40 of the L.P.A., 1925. Moreover, V's solicitors, by submitting a draft contract have treated the memorandum as a conditional one. It is difficult to say, however, without consideration of the whole correspondence, whether P has not become estopped from denying the existence of a contract. If he has, then the principle laid down in *Thomas* v. *Brown*, 1 Q.B.D. 714, would apply, and the deposit could not be recovered in the absence of clear evidence that V had made a misrepresentation as to the amount payable for road-making, which induced the contract.

P is in the dilemma as to whether he should allege that there was no contract, or only a conditional one, in which case the deposit might be recovered unless he has become estopped as mentioned above (*Chillingworth* v. *Esche*, 1924, 1 Ch. 97); or whether he should ask for a rescission of the contract on the ground of V's misrepresentation. If he admits the contract, which he must do if he claims rescission, the opinion is given that, if the alleged statement of V is proved as a statement of a specific fact, P could claim rescission and recover the deposit.

Legal Parables.

III.

The County Court Actions.

Now a certain man had a claim against his neighbour, which was difficult of proof and full of snags. And he came unto a solicitor, who was young and earnest and said: "This wrong hath my neighbour done me. Do thou go in and get justice for me. But I pray thee keep the costs low, for I am poor."

So the young and earnest solicitor set to work and laboured much to get up the case. And, for the further saving of his client, he did himself don gown and bands and conduct the case without counsel. And, by virtue of his diligence and ability he won victory for his client with costs, thereby earning for himself about one guinea and a half for his costs.

But there was another solicitor of older years living hard by. And to him came a man who had a simple claim against another for goods sold and delivered, the amount whereof was small. And the solicitor took up the action with great zest and obtained discovery and procured advice on evidence, and all those matters which are at all times lawful but not always necessary. Furthermore, he delivered to counsel a brief of many folios, but did not himself attend the hearing (betaking himself, instead, to other courts wherein tennis is played), leaving the junior clerk to attend on counsel in his stead. And, by reason of the real issues being obscured by so many observations, counsel missed the only important point and thereby lost the case.

But the solicitor prepared and delivered a long and detailed bill, ending with the words "This is my bill," whereat the client, albeit unwillingly, paid up without much argument.

From which it would appear that he who saves his clients' pocket lightens his own, but he who is mindful of his own interests reapeth abundant reward. "BARON."

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NOTES OF CASES.

House of Lords.

Ottoman Bank *v.* **Jebara.** 1st May.

SALE OF GOODS—BILLS OF EXCHANGE—DEPRECIATED CURRENCY—PAYMENT IN STERLING.

The question in this action was whether the respondent was entitled to be paid in sterling on the amount of certain bills of exchange in connexion with the sale of goods or was bound to accept sterling calculated on the depreciated rate of the Turkish exchange. The respondent purchased goods in Manchester for export to the East and entrusted to the bank the bills of lading and invoices, together with bills of exchange in sterling for the price thereof. The appellants had no authority to part with the goods unless the appellants were in a position to pay sterling value of the bills of exchange. During the war with Turkey the bank collected from the drawees sums in piastres equivalent to the sums in sterling mentioned in the drafts, releasing the goods against such payments, but owing to the war it was impossible to remit money to England. After the war the Turkish currency had enormously depreciated, and the sum in sterling which the piastres would produce was much less than the sums represented by the drafts. The respondent demanded the total sterling sum as shown on the drafts, and by this action claimed the sterling value of the bills of exchange collected by the appellants. Alternatively, he alleged that the appellants had wrongly parted with the goods and claimed damages for conversion. Rowlatt, J., decided in favour of the first claim and the Court of Appeal on the alternative claim. The respondent now intimated that all he wanted was to be paid in sterling, but the appellants declined the offer and insisted on appealing to the House.

Lord DUNEDIN, in delivering judgment, said his view was that, as the bank accepted payment in lawful money and handed over the goods, it constituted itself debtor for the sterling amount on the face of the bill. He was unable to take the view taken by the Court of Appeal, which was that the bank at Beirut had no right to deal with the goods. He thought that the bank was perfectly entitled to do what it did and might have been forced to do it. That, in his view, shut out any idea of conversion. The liability of the bank rested on the fact that, being entrusted with the goods, they parted with them on payment of the bill. They constituted themselves debtors in sterling, and in sterling they must pay. The judgment of the Court of Appeal should be recalled and the judgment of Rowlatt, J., restored.

Lords SHAW, PHILLIMORE, BLANESBURGH and CARSON concurred.

COUNSEL: *Hon. Geoffrey Lawrence*, K.C., *D. B. Somervell* and *J. W. G. Barry*; *Cyril Atkinson*, K.C., and *Sir Cassie Holden*.

SOLICITORS: *Bischoff, Coxe, Bischoff & Thompson*; *Pritchard, Englefield & Co.*, for *Brett & Co.*, Manchester.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Court of Appeal.

Elwell *v.* **Crane Foundry Co.**

Lord Hanworth, M.R., Lawrence and Sankey, L.JJ.

3rd July.

WORKMEN'S COMPENSATION—ARBITRATION—JUDGMENT FOR EMPLOYERS WITH COSTS—WORKMAN NOT LIABLE TO PAY COURT FEES—TAXING COSTS FEE—WORKMAN'S REFUSAL TO PAY—REIMBURSEMENT OF FEES ALREADY PAID BY EMPLOYER—WORKMEN'S COMPENSATION ACT, 1925, 15 and 16 Geo. 5, c. 84, 1st Sched., cl. 12.

A workman who had been injured in an accident brought arbitration proceedings against his employers, but failed, and

was ordered to pay the costs. He paid these, to the extent of £22 16s. 5d., but refused to pay 11s. 6d., the fee which the employers had paid for having the costs taxed in the county court. The county court judge gave leave for execution to issue against the workman, and the latter appealed, contending that he was not liable to pay this fee, by reason of cl. 12 of the 1st Sched. to the Workmen's Compensation Act, 1925, which provides that, "No court fee shall be payable by a workman in respect of any proceedings in a court under this Act."

Lord HANWORTH, M.R., said that under No. 76 of the County Court Rules, the costs in question had to be computed by taxation. It seemed to him that the words of cl. 12 did not exclude the liability of the workman to pay a sum properly incurred by the employers. He (Lord Hanworth) did not attach much importance to precedents, or to reports of practice said to have been followed in different county courts, but it appeared that the words used in cl. 12 were put in to make the path of the workman towards arbitration smooth and easy, and not to let him be incumbered by having to provide money for costs upon his approach to the court. No court fee was to be demanded as a condition precedent to his case being heard. Upon the other hand, it seemed too wide an interpretation to say that that excluded his liability to reimburse a sum which had been estimated as the costs of the employer. The fee in question was not a fee payable by the workman, but there must be a repayment to the employers of a sum which they had necessarily to lay out in respect of their costs, the total of which had to be ascertained.

COUNSEL: *Cave*, K.C., and *C. A. Collingwood*, for the appellant; *R. H. Norris*, for the respondents.

SOLICITORS: *Herbert H. Moseley*, for *W. A. & H. M. Foster*, Wolverhampton; *Berrymans*, for *T. Haynes Duffell*, Birmingham.

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

Smith *v.* Wood.

Lord Hanworth, M.R., Sankey and Russell, L.JJ. 5th July.

MORTGAGE—CONTRACT OF SURETYSHIP—RELEASE OF PROPERTY OF ONE PARTY—DISCHARGE OF OTHERS.

This was an appeal by the defendant from the judgment of the Vice-Chancellor of the County Palatine of Lancaster. The appellant, in February, 1924, guaranteed a sum of £5,000 on behalf of a company in which the plaintiffs were interested. In return the plaintiffs and other persons deposited securities in his hands, and charged them in his favour by a deed of mortgage by which all the securities contributed by each person became liable for any sums which might become due to the defendant from the company. In April, 1924, one of these persons, for her own private purposes, induced the defendant to return to her the title deeds of a house, which constituted the security contributed by her, and as a result the house became charged with a sum of £600 in priority to the defendant's security. In October, 1924, the company went into liquidation, and the defendant was called upon for the whole amount of his guarantee. In May, 1927, the defendant gave notice to the parties to the mortgage that he proposed to realise their securities, whereupon the plaintiffs sued in the Vice-Chancellor's Court of the County Palatine, claiming a declaration that their property was discharged by reason of the defendant's action in releasing the securities of one of the other parties. In October, 1927, the defendant purchased the rights of redemption in the house in question for £1,000, £600 of which was paid to the building society for the purpose of extinguishing their charge. The Vice Chancellor made an order in favour of the plaintiffs. The defendant appealed.

The Court held, notwithstanding that plaintiffs had undertaken no personal liability, that if the property of any one or more of them was taken for the purpose of recouping the defendant's losses, that person or persons would be entitled to have the securities of the others marshalled so that the reimbursement should fall proportionately on all the parties to the deed. The defendant, by releasing in part the property of one of those parties without the consent of the others, had deteriorated the position of the others. Consequently, in accordance with the principles of the contract of suretyship, the plaintiffs were entitled to the release of their securities, which could no longer be realised for the benefit of the defendant. The action of the defendant in purchasing the equity of redemption and paying off the building society's charge was irrelevant. Appeal dismissed with costs; defendant to be entitled to retain the securities for one month, and if he should present an appeal to the House of Lords within that time, until the hearing of that appeal.

COUNSEL: *Cyril Atkinson*, K.C., and *A. H. Montgomery*, for the appellants; *Sir F. H. E. Cunliffe*, K.C., and *E. C. C. Firth*, for the respondents.

SOLICITORS: *Steel & Mackrell*, Burnley; *Southern, Ritchie & Southern*, Burnley.

[Reported by J. F. ISELIN, Esq., Barrister-at-Law.]

High Court—Chancery Division.

Re Ford: Powell's Case.

Clauson, J. 25th and 26th June.

BANKRUPTCY—PRACTICE of FURNITURE TRADE—DELIVERY BY NON-TRADE CUSTOMER TO DEALER OF ARTICLE FOR DEALER TO DISPLAY FOR SALE.—BANKRUPTCY ACT, 1914, 4 & 5 Geo. 5, c. 59, s. 38 (*c*).

By this motion, the trustee in bankruptcy of a furniture dealer asked for a declaration that the property of the bankrupt included a certain writing table which had been sent to the bankrupt for him to try and sell it, a minimum sale price having been laid down. It was stated in evidence, that the "sale or return" practice proved in the case of *Restall, Brown and Clennell, Ltd., infra.*, was equally applicable to attempted sales by dealers on behalf of persons not in the trade.

CLAUSON, J., said that the respondent had failed to prove that there was a general custom in the trade for a trader such as the bankrupt to hold goods of private customers for sale on commission or otherwise; but the table in dispute was saved from coming within the operation of the reputed ownership clause of the Bankruptcy Act, 1914, upon a different ground, namely, that the existence in the trade of a custom proved in *Restall, Brown and Clennell Ltd.'s Case, infra*, prevented the reputation of the bankrupt's ownership attaching to any of the goods in his shop; accordingly, it could not be predicated of the respondent's table that it was in the bankrupt's possession under such circumstances that the bankrupt was the reputed owner of it. The motion would therefore be dismissed.

COUNSEL: *J. P. Eddy; Tindale Davis.*

SOLICITORS: *W. Goodwin; Wordsworth, Marr, Johnson and Shaw.*

[Reported by K. R. A. HART, Esq., Barrister-at-Law.]

Re Ford: Restall, Brown and Clennell, Ltd.'s Case.

Clauson, J. 25th June.

BANKRUPTCY—CUSTOM OF ANTIQUE FURNITURE TRADE—"SALE OR RETURN" DELIVERY—BANKRUPTCY ACT, 1914, 4 & 5 Geo. 5, c. 59, s. 38 (*a*).

By this motion, the trustee in bankruptcy of an antique and furniture dealer sought a declaration that the goods of the respondent company vested, as being property of the bankrupt, in the trustee, because they were vested in the bankrupt when the bankruptcy started or else under the provisions of s. 38 (*c*) of the Bankruptcy Act, 1914. The respondent company had been supplying the bankrupt with goods "on sale or return." These goods, chosen by the

bankrupt himself, were delivered from the respondent company's premises by their carman, with a "sale or return" invoice. Lump sums were paid by the bankrupt from time to time, on account of such of these goods as he sold; and there was no fixed time limit within which he had to sell. The receiving order was made in November, 1927, and the adjudication in bankruptcy came the next month. The bankrupt then owed the company about £2,000, and the company's goods were displayed for sale in his shop window, with nothing to distinguish them from other goods so displayed. Evidence on the "sale or return" custom was given.

CLAUSON, J., said that proof of the existence of such a trade custom as that which had been alleged by the respondent company had been established. The practice adopted between the bankrupt and the respondent company indicated an intention within the meaning of the Sale of Goods Act, 1893, and excluding the sales therein stated, that the property in the goods should not pass to the bankrupt until sale. The result of the proof that the alleged custom existed was that, at the commencement of the bankruptcy, the goods in dispute were not in the possession of the bankrupt under such circumstances as to make him, within the meaning of s. 38 (c) of the Bankruptcy Act, 1914, the reputed owner thereof. The motion would therefore be dismissed.

COUNSEL: *Edward Clayton*, K.C. and *J. Flowers*; *Schiller*, K.C., and *Stable*.

SOLICITORS: *W. Goodwin*; *Rye & Eyre*.

[Reported by K. R. A. HART, Esq., Barrister-at-Law.]

***Re* Visser, deceased: H.M. the Queen of Holland *v.* Drukker and Others.** Clauson, J. 29th June.

INTERNATIONAL LAW—FOREIGN FISCAL LAW—ACTION BY FOREIGN SOVEREIGN TO RECOVER MONEY DUE—MOTION TO STRIKE OUT STATEMENT OF CLAIM—ACTION DISMISSED.

This was a motion by one of three defendants, in an action in which the Queen of Holland sought to recover moneys alleged to be due from them as personal representatives in England of a deceased Dutch national, to strike out the statement of claim as disclosing no good ground of action, and to dismiss the action. The defendant, who was the applicant on the motion, contended that the courts of the United Kingdom would not take notice of the revenue laws of foreign states.

TOMLIN, J., said that there was a well recognised rule under which English courts would not collect taxes for foreign sovereigns. For at any rate the last 200 years, judges had repeatedly said that the courts of this country would not take notice of the revenue laws of foreign states. The court was bound by the ordinary rule, and would leave it to higher jurisdiction to say whether the rule should be maintained. The application succeeded, and the statement of claim would be struck out and the action dismissed; and, as the foreign sovereign had submitted to the jurisdiction, the court would order her to pay costs.

COUNSEL: *A. M. Latter*, K.C., and *Henry Johnston*; *C. A. Bennett*, K.C., and *Frank Gahan*; *Wilfrid M. Hunt*; *James Wylie*.

SOLICITORS: *Waltons and Co.*; *Matthew J. Jarvis*; *Speechly, Mumford and Craig*; *Linklaters and Paines*.

[Reported by K. R. A. HART, Esq., Barrister-at-Law.]

Vernon Jeffreys *v.* Pinto.

Clauson, J. 29th June and 3rd July.

MONEYLENDER—INTRODUCTION BY AGENT—HARSH AND UNCONSCIONABLE TRANSACTION RE-OPENED — MONEYLENDERS ACT, 1927, 17 & 18 Geo. 5, c. 21, ss. 5 (3), (6), 10.

The plaintiff in this action, who had been introduced to the defendant moneylender by the manager and secretary of another moneylending firm, asked that a bill of sale on her furniture, executed to secure a loan from the defendant of £500, bearing interest at 48 per cent., be declared illegal and void, that the transaction be declared harsh and unconscionable, and that a fair rate of interest be determined.

CLAUSON, J., said that there was not enough evidence to prove a preconcerted plan between the defendant moneylender and the man who introduced the plaintiff to him, under which the advance which she desired was to be made to the plaintiff. But upon the proper construction of s. 5 (3) of the Moneylenders Act, 1927, no person might act as agent or canvasser to invite any person to borrow money or enter into any transaction involving the borrowing of money from a moneylender. Any transaction so procured was illegal, even though the moneylender proved he had not connived at it. In the present case, there must, clearly, have been connivance, and the transaction was harsh and unconscionable. Any transaction of the kind was so, even where there was no security, if interest exceeded 48 per cent. Here the bill of sale afforded ample security, yet the rate of interest was 48 per cent. The plaintiff was entitled to have the transaction re-opened and the rate of interest fixed at 15 per cent.

COUNSEL: *Frank G. Enness*, for the plaintiff; *Edward Clayton*, K.C., and *H. J. Wallington*, for the defendant.

SOLICITORS: *W. H. Speed & Co.*; *Woolfe & Woolfe*.

[Reported by K. R. A. HART, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Townend *v.* Townend. Lord Merrivale, P. 6th June.

DIVORCE — "STEREOTYPED LETTER" — WARNING TO SOLICITORS.

In giving judgment in this undefended suit for dissolution the President, commenting upon cases of divorce in which resort was had to a hotel, issued a warning to any solicitor who should hereafter be identified as having given advice of the nature disclosed.

Lord MERRIVALE, P.: This case illustrates the practice which has grown up of taking divorce proceedings in such a way as to blind the court and to conceal from the public the true character of the facts out of which the suit arose.

The truth of the matter here is that for a long time the respondent apparently has had an adulterous association with the woman named in the petition to the prejudice of the wife. . . . The respondent appears to have resorted to a solicitor knowing that his wife was entitled to take proceedings for a divorce. He seems to have been advised by somebody that a judicious course to be taken by him was to set up a pretence of a resort to a hotel somewhere with somebody, and then communicate with his wife. So he wrote to her, enclosing a hotel bill, as follows: "I am given to understand that I must write you the stereotyped letter and send a bill, which I am now doing. It seems to me rather far-fetched, considering that I long ago stated that I will not defend any proceedings." The petitioner, with good judgment and proper spirit, said in effect: I am not going to take proceedings under a mask. What I am complaining of is your adulterous association with the woman whom you have put in my place. When I can establish that I will take steps accordingly. The petitioner has now established the adultery of her husband with the woman in question. It is right that I should say, in regard to that letter, that if a case were clearly proved in which an identified solicitor gave advice which appeared to be the advice given to the respondent in this case, setting up a "stereotyped letter" in regard to a pretended case of divorce, I will take care that those proceedings are considered by the Public Prosecutor.

His lordship granted a *decree nisi*, with custody of the children, and costs.

In reply to counsel for the petitioner his lordship agreed that the petitioner's solicitors had been quite correct in their attitude.

COUNSEL: *T. Bucknill* for the petitioner.

SOLICITORS: *Wild, Collins & Crosse*.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Societies.

The Central Discharged Prisoners' Aid Society.

A well-attended meeting of the supporters of this Society was (by the courtesy of the Treasurer and Benchers of The Honourable Society of the Middle Temple) held in the Middle Temple Hall on Thursday, the 28th ult., Mr. Serjeant Sullivan presiding.

The SECRETARY (Mr. W. W. Jemmett, F.I.S.A.) read letters of apology from those who were unable to be present, including Her Highness Princess Marie Louise, The Archbishop of Canterbury, the Lord High Chancellor, The Marquess of Reading, The Marchioness of Londonderry, The Cardinal Archbishop, The Bishop of Birmingham, the Speaker of the House of Commons, H.M. Secretary of State, Lord Darvngton, P.C., the Chancellor of the Exchequer, the Lord Chief Justice, the Master of the Rolls, the Commissioners of the Metropolitan and City Police, and His Excellency the Belgian Ambassador.

The CHAIRMAN, in opening the meeting, said that his presence there was an assurance on the part of every member of the bench of sincere sympathy with the objects of the meeting. (Applause.) Whilst in the nineteenth century reform of the prison system commenced, in the twentieth century they could claim that our advance in civilisation had at least robbed the prison of the brutalising features that disgraced it for so many years, if not for so many centuries. But the Society existed in order to bring to the conscience of the community that in the new dispensation, as in the old, a sentence is, in fact, a life sentence, because there is no use saying that a man is condemned to imprisonment for six months and no more, if he is to emerge from the jail into a world of hopelessness and despair to find every man's hand against him. If that condition prevails he might as well remain inside the prison walls, and so long as that condition does prevail he turns his hand against every man, society having declared itself his enemy, and, therefore, six months' imprisonment may be a life-long condemnation of many a man who, losing his respect, despairs of ever re-establishing himself in the community against which he has offended.

Now that is a problem which needs, in justice to everybody, the work of such a Society as yours. It has very far to go before it will arouse the public conscience sufficiently, because the problem is not appreciated as it should be. If you shut every door of honest occupation against a man because he has been sentenced once you will drive that man to a life of crime. To all of us who believe that our offences in this life may be the subject of forgiveness, that is in one sense a real injustice. The theory of our constitution is that when a man has expiated his offence he ought to be able to stand clear and start life afresh. He is not able to do that without the help of a society, carrying on, as you do, a great work for the welfare of an unfortunate section of humanity, rescuing at the prison gates those who would drift back into a state of hopelessness and demoralisation, taking human beings who, so long as they are human, must have much good in them, giving them a chance of developing what is good in them and no longer fostering what is bad. (Applause.)

Mr. Justice CHARLES, C.B.E., said: I am not in any way new to the advantages of a society like yours, for years ago in company with my friend, Mr. Brodrick, and with Lord Alverstone, I sat on a Committee of the Metropolitan Discharged Prisoners' Aid Society, who focussed their attention on matters such as those to which your Society directs its attention to-day. I knew then as a human being how absolutely necessary a society of this sort is to the welfare of the community at large. Necessary, I say, to the community at large for two reasons. It is necessary for the man, it is necessary for those who may be preyed upon by that man, if he is unreasonably cast into the arms of constant crime, without any effort to draw him back into the cleaner path of honesty. I knew it then, I know it still more now, and I knew it very well sitting as a recorder and having to deal with wrongdoers. However well intentioned judges are, it is difficult to do all that you would in the assistance of the criminal without being unjust to the community. It is necessary and it is one's bounden duty to pass sentence on the wrongdoer if you think as a judge that society should be protected from the sort of crime the man has committed. But when you pass that sentence your hope is, and in my personal case my belief is, knowing what societies such as yours are doing, that at the conclusion of that sentence a man will have his chance. Certainly he ought to. Every soul in the world who has any of the springs of mercy still not dried up, every man and woman worthy the name of a man and woman, would wish that a man who has done wrong may in some way or another be led back into the straight path. (Applause.)

But it can only be done by the active co-operation of those who are willing to employ men who have gone wrong. And, believe me, it is an act of considerable self-sacrifice, sometimes, as I have seen myself, on the part of employers, to take into their employ a man who they know has committed some crime of dishonesty. For an employer may well say, "I want to do what I can, but what of my business and of the fellow employees." Yet, facing all that, employer after employer, as your report shows, does lend himself to the splendid work of reclaiming a man who has gone wrong and once more giving him a chance to be a decent and honest member of society.

It is impressed on one, sitting as a judge, how bitter the first downfall is. Some cases are really heartbreaking, for dishonesty which cannot and may not be excused is to be found impelled and urged sometimes by real want, and very often by distress at home.

In my experience, a society of this sort can and does look after the families who find themselves without the bread-winner, the children who find themselves temporarily without their father. There is no nobler work in which any society can engage and it is work which not only deserves, but—if anything that I say goes outside this hall—I trust will obtain great support.

Miss HALDANE, J.P., said; I have only been on one occasion a jurywoman, and then there were two serious matters concerning children. They were most pathetic cases—one of them reminded me of the story of Effie Deans or of Hester Prynne. In one case we were able to bring in what you consider the very convenient verdict "Not proven." There it was; a very sad case. The girl had got into trouble. The other was also a sad case. My point is this, those two girls were looked after by your Society, both were restored to their positions, and both turned out splendidly. I do think that was a very good example of the work of this Society. Those girls got into terrible trouble, and the probation officer who looked into the cases was able to report to me that both were doing admirably in the end. I thought I would like to mention those examples, because they were given to me personally not so very long ago. I am not going to keep you longer, but I do know the result of the work of this Society, and I would commend this Society most heartily to all those who are interested in the welfare of our people. (Applause.)

The Rev. S. P. H. STATHAM (Hon. Secretary), in speaking of the work of the Society, said: I think you would like to know some of the kind of work we do. Here is the case of a solicitor, who was a very well-educated man and was struck off the Rolls for misappropriation. The result was inevitable—he sank right down to the bottom. He had been sentenced to one year and nine months' imprisonment in the provinces, and did not come to us until more than a year after his discharge from prison. He had been struggling on, and his friends had been assisting him, but without result. By a curious piece of luck, on the very day he came into our office and was interviewed by Mr. Jemmett, he was definitely engaged as a clerk. (Applause.) The very first day we got him off after trying for a year by himself. His employer subsequently told us, when we made enquiries, that he had left his work to take up much better employment elsewhere.

Here is another case. A naval commander was discharged from the Navy, where he held fairly high rank. He had done very well during the war, and would have retired on pension, but unfortunately he got temporarily into debt and made use of money that had been entrusted to his care, collected for charity; I do not suppose for one moment he intended to steal it, he meant to put it back; however, he did not put it back, and he was convicted and sent to prison. You can understand the tremendous crash, for a naval officer to do that. Well, he came out of prison and we took charge of him. In this connection I would like to point out the great difficulty of where a man is to sleep, how is he to pay for his washing and all those other things that have to be thought of in connection with a discharged prisoner? This man was boarded and lodged, and a little pocket money given him, as it is no use starving a man and making him miserable. Employment was found for him as a traveller, not as a traveller on commission where very often a man cannot make a start at all, but a traveller with a good position, and we got this letter from him:—

> "I want to thank you and your society for the great assistance you have been to me since I was released and also for the trouble you have taken in finding me employment. I don't know how I should have lived through the last weeks without your help. Please accept my sincere thanks."

I will quote you one more case, that of a man who was a qualified accountant. I am just taking some of these difficult cases because you will understand what a real difficulty there is in placing them in these positions. He was forty-three years of age, and was sentenced to fifteen months' imprisonment for bigamy; he was a man who held quite a good social

and professional position, and you can quite understand what fifteen months in prison meant to him. Although this man had contracted a bigamous marriage we did our best for him, we kept him going until he got a job. We got him started as a clerk, he did very well in this new position, not only so, but he managed to get back to his profession as an accountant where he is now doing very well. (Applause.)

You know this work cannot be done without money, and the object of this meeting is to spread the knowledge of our work, consequently I appeal to your good services and kind hearts to let it be known outside. I believe a great deal of good work can be done by people recommending our society to one another, and just to show that we are not begging for ourselves I would tell you that every penny subscribed by the public for the benefit of a prisoner goes to the prisoner, it does not go in office expenses. And that has been made possible by the Will of Mr. C. J. Eno, who left the society £10,000.

A vote of thanks was moved by Mr. F. P. WHITBREAD (president) to the Masters and Treasurer of the Middle Temple for their kindness in allowing the meeting to be held in that historic hall; to the Masters and Treasurer of the Inner Temple for their kindness in allowing a collection to be held in the Temple Church on the previous Sunday; and to the speakers who had addressed the meeting, and this was carried by acclamation.

Incorporated Justices' Clerks' Society.

The eighty-eighth annual general meeting of the Incorporated Justices' Clerks' Society was held at The Law Society's Hall, on Friday, the 29th ult., the President, Mr. J. R. Roberts (Newcastle-upon-Tyne), taking the chair. Those present included Mr. S. E. Major (Barrow-in-Furness), Vice-President, Mr. J. B. Cooke (Wakefield), Mr. F. B. Dingle (Sheffield), Mr. W. H. Foyster (Salford), Mr. E. J. Hayward (Cardiff), Mr. F. C. E. Jessopp (Edmonton), Mr. J. W. Thorpe (Swansea), Mr. E. J. Waugh (Hayward's Heath), and Mr. G. T. Whiteley (Southwark), members of the Council, Mr. Neville R. Stow (Tunbridge Wells), Mr. A. F. Percival (Peterborough), Mr. R. D. Newill (Wellington, Salop), Mr. W. Levart Price (Hampstead), Mr. R. E. Bruce Beal (Paddington), Mr. N. K. Chalmers-Hunt (Ware), Mr. W. Archibald Boyes (Barnet), Mr. J. W. Smith (Bury), Mr. T. D. Whateley (Bournemouth), Mr. H. T. Bull (Bury, Lancs), Mr. William J. Phair (West Bromwich), Mr. W. H. Wightwick (Canterbury), Mr. R. A. Reay-Nadin (Sutton Coldfield), Mr. Herbert G. Phillips (Hungerford), and Mr. Henry Rosling (Reigate), Secretary.

The report referred particularly to the fact that during the year attention had been drawn to the attempts of a certain borough to interfere with the terms on which the local justices appointed their clerks and to a request made to the local justices to reduce the clerk's salary with a view to enforcing the council's wishes as to the terms of the appointment. The importance of maintaining an independent magistracy could not be gainsaid, and the council of the society had caused submission respectfully to be made to the Lord Chancellor that, inasmuch as the local authority was the chief litigant in the petty sessional court, it was undesirable that too large a number of the members of the local authority should receive appointments as justices of the peace. It was a matter for careful consideration whether further legislation was not required for the purpose of adequately safeguarding the independent and unbiased local administration of justice; as, in addition to the above, other instances of undue interference by the local authorities had been brought to the attention of the council.

The PRESIDENT, in moving the adoption of the report, referred to the above subject as one of great importance. He also spoke on the question of superannuation, observing that the matter had been considered in consultation with the Magistrates' Association, and conclusions were provisionally arrived at to the effect that the appointment and control of the justices' clerk should be in the hands of the justices concerned, that the qualifying terms of service should be limited to twenty-five years for the justices' clerk and forty years for the staff, that the age of retirement, taking sixty-five as normal, should be capable of extensions, approved by the Home Office, on the recommendation of the justices, and that the basis of pension should be two-thirds on the average of the last five years' salary before retirement after twenty-five years.

The report was unanimously adopted.

On the motion of Mr. MAJOR, the following resolution was agreed to:—"That it be an instruction to the council, if and when the occasion may arise, to take such steps as may be advisable to prevent magistrates and their clerks from being interfered with by town and county councils."

A motion by Mr. DEANE, that two members of the council should retire annually and be incapable of re-election, was withdrawn on the understanding that the council would give the subject their consideration.

Mr. Major was elected President, Mr. J. B. Cooke (Wakefield), was elected Vice-President, and the following were re-elected to the council:—Mr. Dingle (Sheffield), Mr. W. H. Foyster (Salford), Mr. E. J. Hayward (Cardiff), Mr. F. C. E. Jessopp (Edmonton), Colonel F. G. Langham (Hastings), Mr. J. W. Thorpe (Swansea), Mr. E. J. Waugh (Hayward's Heath), and Mr. G. T. Whiteley (Southwark). Mr. R. A. Reay-Nadin (Sutton Coldfield) was elected to the council in place of Mr. H. J. E. Price (Haverfordwest), who did not seek re-election. Mr. H. Rosling, (Reigate) Secretary, was re-elected.

Law Association.

The usual monthly meeting of the directors was held at The Law Society's Hall on Thursday, the 5th inst., Mr. William Winterbotham in the chair. The other directors present were: Mr. J. D. Arthur, Mr. H. B. Curwen, Mr. P. E. Marshall, Mr. J. R. H. Molony, Mr. A. E. Pridham, Mr. John Venning, Mr. W. M. Woodhouse, and the secretary, Mr. E. E. Barron. A sum of £264 was voted in relief of deserving cases, two new members were elected, and other general business transacted.

The Law Society.

ELECTION OF COUNCIL.

At an adjourned meeting of The Law Society presided over by the new President, Mr. R. M. Welsford, the result of the ballot to fill twelve vacancies on the council was announced, the following being elected: Mr. G. W. Colclough, Mr. A. H. Coley (Birmingham), Sir Cecil Allen Coward, Sir Robert W. Dibdin, Mr. W. Alan Gillett, Sir Guy Roger Burrow Gregory, Mr. R. F. W. Holme, Mr. C. Mackintosh, Sir Donald Maclean, Mr. W. Egerton Mortimer, Colonel William Mackenzie Smith (Sheffield), and Mr. Walter Mantell Woodhouse.

All but Colonel Smith and Mr. Gillett had retired in rotation.

STUDENTSHIPS FOR 1928.

The council have made the following award of three studentships of the annual value of £40 each, tenable for one year, but renewable at the discretion of the council:—

CLASS A.

[Candidates under 19 years of age.]

Mr. DAVID STACE JACKLING (St. Lawrence College and the Law Society's School of Law).

Mr. THOMAS NORMAN LOCKYER (Mercers' School).

CLASS B.

[Articled clerks having not less than three years to serve.]

Mr. JULIUS STONE (Leeds Central High School, and Exeter College, Oxford).

Mr. Jackling is articled with Mr. Herbert Stainer, of Hythe, Kent; and Mr. Lockyer with Mr. F. C. Coningsby, of London. Mr. Stone is not yet articled.

Gloucestershire and Wiltshire Incorporated Law Society.

The annual general meeting of this Society was held at Salisbury on 19th July, 1928.

There were present: Mr. R. H. Penley, President (Dursley), Mr. A. C. Jonas, Vice-President (Salisbury), Messrs. E. L. Baylis, J. Bubb, G. F. Ticehurst, I. D. Yeaman (Cheltenham), R. J. Mullings, H. St. G. Rawlins (Cirencester), E. F. T. Fowler (Gloucester), A. L. Forrester (Malmesbury), G. H. Pavey-Smith (Nailsworth), J. J. Hammond, H. E. Jackson, H. S. P. Symonds, H. E. Vincent (Salisbury), E. C. Elwell, W. H. Kinneir, J. W. Pooley, J. W. Pridham, J. Crewe Wood (Swindon), C. J. L. Sheppard (Stroud), W. L. Bown (Trowbridge), H. Dale (Wootton Bassett), with Mr. Herbert H. Scott, Hon. Secretary, and Mr. John W. Haines, Hon. Treasurer.

It was reported that the Society now consists of 137 members, practising in Gloucestershire and Wiltshire, of whom 104 are members of The Law Society, and 44 members of the Solicitors' Benevolent Society. Five new members were elected and a sum of £78 was voted in charitable grants. Mr. A. C. Jonas (Salisbury) was elected President and Mr. H. St. G. Rawlins (Cirencester) Vice-President for the ensuing year.

After luncheon at the White Hart Hotel the members visited Longford Park, by kind permission of Lord Radnor, and thence proceeded to Old Sarum, where tea was taken with the new President and features of interest were ably explained by Mr. Frank Stevens, F.S.A.

Long Vacation, 1928.

NOTICE.

During the Vacation, up to and including Wednesday, 5th September, all applications "which may require to be immediately or promptly heard," are to be made to The Hon. Mr. Justice CHARLES.

COURT BUSINESS.—The Hon. Mr. Justice CHARLES will, until further notice, sit in The Lord Chief Justice's Court, Royal Courts of Justice, at 10.30 a.m., on Wednesday in each week commencing on Wednesday, 8th August, for the purpose of hearing such applications of the above nature, as, according to the practice in the Chancery Division, are usually heard in Court.

PAPERS FOR USE IN COURT.—CHANCERY DIVISION.—The following Papers for the Vacation Judge are required to be left with the Cause Clerk in attendance at the Chancery Registrars' Office, Room 136, Royal Courts of Justice, on or before 1 o'clock, two days previous to the day on which the application to the Judge is intended to be made:—

1.—Counsel's certificate of urgency or note of special leave granted by the Judge.

2.—Two copies of notice of motion, one bearing a 10s. impressed stamp.

3.—Two copies of writ and two copies of pleadings (if any).

4.—Office copy affidavits in support, and also affidavits in answer (if any).

No Case will be placed in the Judge's Paper unless leave has been previously obtained or a Certificate of Counsel that the Case requires to be immediately or promptly heard, and stating concisely the reasons, is left with the papers.

N.B.—Solicitors are requested when the application has been disposed of, to apply at once to the Judge's Clerk in Court for the return of their papers.

URGENT MATTERS WHEN THE JUDGE IS NOT PRESENT IN COURT OR CHAMBERS.—Application may be made *in any case of urgency*, to the Judge personally (if necessary), or by post or rail, prepaid, accompanied by the brief of Counsel, office copies of the affidavits in support of the application, and also by a Minute, on a separate sheet of paper, signed by Counsel, of the order he may consider the applicant entitled to, and also an envelope, sufficiently stamped, capable of receiving the papers, addressed as follows:—"Chancery Official Letter: To the Registrar in Vacation, Chancery Registrars' Office, Royal Courts of Justice, London, W.C.2."

On applications for injunctions, in addition to the above, a copy of the writ must also be sent.

The Papers sent to the Judge will be returned to the Registrar.

The address of the Vacation Judge can be obtained on application at Room 136, Royal Courts of Justice. Vacation Registrar.—Mr. MORE (Room 188).

CHANCERY CHAMBER BUSINESS.—The Chancery Chambers will be open for Vacation business on Tuesday, Wednesday, Thursday and Friday in each week, from 10 to 2 o'clock.

KING'S BENCH CHAMBER BUSINESS.—The Hon. Mr. Justice CHARLES will, until further notice, sit for the disposal of King's Bench Business in Judge's Chambers at 11 a.m. on Tuesday in each week, except the first week, when his Lordship will sit on Wednesday, 1st August.

PROBATE AND DIVORCE.—Summonses will be heard by the Registrar, at the Principal Probate Registry, Somerset House, every day during the Vacation at 11.30 (Saturdays excepted).

Motions will be heard by the Registrar on Wednesdays, the 15th and 29th August and the 12th and 26th September, at the Principal Probate Registry, at 12.15.

Decrees will be made absolute on Wednesdays, the 8th and 22nd August, the 5th and 19th September and the 3rd October.

All Papers for making Decrees absolute are to be left at the Contentious Department, Somerset House, on the preceding Thursday, or before 2 o'clock on the preceding Friday. Papers for Motions may be lodged at any time before 2 o'clock on the preceding Friday.

The Offices of the Probate and Divorce Registries will be opened at 10 a.m. and closed at 4 p.m., except on Saturdays, when the Offices will be opened at 10 a.m. and closed at 1 p.m.

Royal Courts of Justice.
July, 1928.

Points in Practice.

Special arrangements have been made to continue to deal promptly with all Points in Practice submitted during the Vacation. Subscribers will, however, greatly facilitate matters by condensing the questions as much as possible, consistent with an accurate statement of the facts.

The Lawyer's Bride, or the Suit of William Styles.

("BILL"-FOR-SHORT.)

Being the pleadings of a young legal practitioner to the fair Phyllis.

Will you come with me, my Phyllis dear, and be a lawyer's bride?
Drawn up is my conveyance, so to the church let's ride;
Oh, don't reserve your judgment, but say you'll marry me!
And do not let your answer be merely C. A. V.

Refrain—List to me, Phyllis, grant my petition,
Come with me, Phyllis dear, and be a lawyer's bride.

The best man, Thomas Smiles, is a fellow that you know,
And I shall have as groomsmen, John Doe and Richard Roe;
Away you shall be given, if discover him we can,
By the *bonus paterfamilias* or the average prudent man.

The jovial six carpenters shall build our house, I trow,
And never fear a suit for trespass *ab initio*.
Our goods the common carrier shall bring from divers places,
And wedding presents many packed in Smith's Leading Cases.

If you lack an occupation, in my office you shall work,
You'll find it most engrossing, so the task you needn't shirk;
And when you're feeling thirsty, we'll both go to the bar,
And there we'll take refreshers, that so customary are.

Be tenant of my heart for life, O Maiden fair and chaste,
And let my arm encircle your voluntary waste;
Don't let me be non-suited, but listen, pray, to reason,
Oh, grant to me your hand in fee and let me have the seisin!

I ask for an attachment, distress is all I get,
Sweet, enter satisfaction of Cupid's judgment debt.
You'll drive me p'raps to murder, if you will not be my wife,
And then an execution will terminate my life.

Your Bill you won't dishonour, accept him, do, at sight,
"Protest for non-acceptance" must never be my plight:
But to your sweet indorsement, oh, let me have recourse,
And let me take delivery as holder in due course.

Upon my skill in pleading you'll surely cast no slur,
Then to my declaration why do you thus demur?
In Cupid's Court, my darling, be quick and prove your will,
And none with infidelity shall ever tax your Bill.

Sustaining my appeal, you, blushing, answer, "Yes,"
And now I'm plainly guilty of embracery, I guess?
But, as you know, *volenti injuria non fit*,
You waive my tort, my darling, when my kisses you permit.

—*Green Bag.*

Legal Notes and News.

Honours and Appointments.

The Prince of Wales has been pleased to appoint The Hon. GEOFFREY LAURENCE, D.S.O., K.C., to be Attorney-General to His Royal Highness, and to be a member of the Council of His Royal Highness, Duke of Cornwall, in succession to Mr. Justice Hawke. Mr. Laurence was educated at Haileybury and New College, Oxford, and was called to the Bar in 1906. He was counsel for Great Britain at the North Atlantic Fisheries Arbitration, at the Hague, in 1919, was appointed counsel to the Jockey Club in 1922, and Recorder of Oxford in 1924, and took silk in 1925.

The Right. Hon. Lord HAILSHAM, Lord Chancellor, has consented to accept the Presidency of the Magistrates' Association in succession to the late Viscount Cave, and will preside at the annual meeting to be held at the City of London Guildhall, on Wednesday, the 17th October next.

The Council of Legal Education announce the appointment of Mr. RALPH SUTTON, O.B.E., Barrister-at-Law, of Lincoln's Inn, to be Reader in common law at the Inns of Court, in place of the late Mr. J. G. Pease, C.B.E. Mr. Sutton was called to the Bar in 1905.

The Lord Chancellor has appointed Mr. ALEXANDER MATHESON, B.A. (Oxon), Solicitor, Chester, to be Joint Registrar (with Mr. Richard Farmer) of the Wrexham and Mold County Courts. Mr. Matheson, who was admitted in 1899, and is a member of the firm of Messrs. Gamon & Co., also holds the appointments of Clerk to the Justices for the Broxton Division of Cheshire and Clerk to the Commissioners of Taxes for the same division.

Mr. E. C. A. JAMES, Solicitor, Sleaford, has been appointed Superintendent Registrar of the Sleaford Union. Mr. James was admitted in 1911.

Wills and Bequests.

Mr. Charles Alderson, solicitor, of The Castle, Morpeth, Northumberland, who died on 10th March, aged seventy-six, left estate of the gross value of £20,277. He left £50 each to Morpeth Cottage Hospital, Morpeth Church Council, and the rector and churchwardens of Morpeth for the benefit of the almshouses.

Mr. Thomas Cox, solicitor, of Evesham, Worcs., who died on 21st January, left estate of the gross value of £39,218. He left £50 to his gardener, Albert John Harrison; and to the treasurer of Abbot Lichfield Lodge, No. 3308, of Freemasons his shares in the Masonic Hall Company, Limited.

THE CITY SHRIEVALTY.

Although the last election to the Shrievalty of the City of London was held only a few weeks ago, we understand that three candidates have publicly intimated their intention to come forward next year, namely, Mr. Alderman W. P. Neal, solicitor, Mr. Stuart R. Simonds, and Major F. H. Bowater. All three are members of the Corporation of London.

JUDGMENT DEBTORS AND CONDUCT MONEY.

His Honour Judge Gwynne-James delivered the following important judgment at the Bath County Court on the 19th inst.: "The question I am asked to decide is what sum should be paid or tendered to a judgment debtor before the court can commit him for non-appearance in court to a judgment summons. Order 35, r. 31 (3), states that a judgment summons shall be deemed to be a summons to a witness within the meaning of s. III of the Act, and a notice according to form in the Appendix shall be annexed to the summons. The form referred to is Form 178 (9), which includes the following notice:—

> In default of your attendance, you will, if at time of service of this summons payment or tender is made to you on the prescribed scale of allowance, be liable to a fine of £10.

This is an intimation to judgment debtor that he cannot be fined for non-appearance if he has not been paid the allowances on the prescribed scale. The prescribed scale of allowance is the prescribed scale of allowance to an ordinary witness. Under Ord. 53, r. 37, this prescribed scale 'is the scale in Part IV of the Appendix of the Act.' This prescribed scale gives an allowance for 'loss of time.'

My attention has been called to the case of *Ward* v. *Nield*, 1917, K.B.D., p. 832, which decides that, in the case of a judgment summons against a debtor residing out of the jurisdiction, when leave of court to issue an affidavit has not been obtained, travelling expenses to and from the court must be paid or tendered to the judgment debtor at the time of issue of the summons. The point I have to decide was not before the court. The 'County Court Annual Practice' contains the following note: 'It has not yet been decided whether the prescribed scale of allowances includes an allowance for loss of time in addition to travelling expenses.' The practice varies on different county court circuits.

For the above reasons I hold that, before a judgment debtor can be fined for non-appearance in court to a judgment summons, the judge must be satisfied, not only that his travelling expenses to and from court have been paid or tendered, but also a sum for loss of time (if any) according to the scale in the Appendix."

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
Monday July30	Mr. Synge	Mr. Bloxam	Mr.*More	Mr. Hicks Beach
Tuesday .. 31	More	Jolly	*Hicks Beach	Bloxam
	Mr. Justice Maugham.	Mr. Justice Astbury.	Mr. Justice Tomlin.	Mr. Justice Clauson.
Monday July30	Mr. Bloxam	Mr. Jolly	Mr. Ritchie	Mr.*Synge
Tuesday .. 31	*More	*Ritchie	Synge	Jolly

*The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The Long Vacation will commence on Wednesday, the 1st day of August, 1928, and terminate on Thursday, the 11th day of October, 1928, inclusive.

VALUATIONS FOR INSURANCE.—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac a specialty.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement Thursday, 16th August, 1928.

	Middle Price 25th July	Interest Yield.	Yield with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	86¼	4 12 6	—
Consols 2½%	55⅞	4 9 6	—
War Loan 5% 1929-47	102	4 18 0	4 18 9
War Loan 4½% 1925-45	98½	4 12 0	4 16 6
War Loan 4% (Tax free) 1929-42	101	3 19 0	4 0 0
Funding 4% Loan 1960-1990	90½	4 8 0	4 11 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	94¾	4 5 6	4 7 0
Conversion 4½% Loan 1940-44	99	4 11 0	4 16 0
Conversion 3½% Loan 1961	78	4 10 0	—
Local Loans 3% Stock 1921 or after	65	4 12 0	—
Bank Stock	264	4 11 0	—
India 4½% 1950-55	93½	4 16 6	5 0 0
India 3½%	71½	4 18 0	—
India 3%	61½	4 17 0	—
Sudan 4½% 1939-73	96	4 14 0	4 17 0
Sudan 4% 1974	86	4 13 0	4 17 0
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 19 years)	83	3 13 0	4 6 0
Colonial Securities.			
Canada 3% 1938	86	3 11 0	4 18 0
Cape of Good Hope 4% 1916-36	94	4 5 0	5 0 6
Cape of Good Hope 3½% 1929-49	81	4 7 0	5 0 0
Commonwealth of Australia 5% 1945-75	99	5 1 0	5 2 6
Gold Coast 4½% 1956	95	4 15 0	4 17 6
Jamaica 4½% 1941-71	95	4 15 0	4 18 6
Natal 4% 1937	94	4 5 0	5 0 0
New South Wales 4½% 1935-45	90	5 0 0	5 7 0
New South Wales 5% 1945-65	99	5 1 0	5 3 0
New Zealand 4½% 1945	97	4 13 0	4 17 6
New Zealand 5% 1946	103	4 17 0	4 16 6
Queensland 5% 1940-60	100	5 0 0	5 3 0
South Africa 5% 1945-75	102	4 18 0	5 0 0
South Australia 5% 1945-75	98	5 2 0	5 0 0
Tasmania 5% 1945-75	101	4 19 0	5 0 0
Victoria 5% 1945-75	99	5 1 0	5 0 0
West Australia 5% 1945-75	98	5 2 0	5 2 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	64	4 13 0	—
Birmingham 5% 1946–56	104	4 16 6	4 16 0
Cardiff 5% 1945–65	103	4 17 0	4 18 0
Croydon 3% 1940–60	71	4 5 6	5 0 0
Hull 3½% 1925–55	77	4 11 0	5 0 0
Liverpool 3½% Redeemable at option of Corporation	75	4 13 6	5 0 0
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	55	4 11 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	65	4 12 6	—
Manchester 3% on or after 1941	64	4 13 6	—
Metropolitan Water Board 3% 'A' 1963–2003	66	4 12 0	4 17 0
Metropolitan Water Board 3% 'B' 1934–2003	67	4 9 6	4 15 6
Middlesex C. C. 3½% 1927–47	83	4 4 6	4 17 0
Newcastle 3½% Irredeemable	72	4 17 0	—
Nottingham 3% Irredeemable	64	4 15 6	—
Stockton 5% 1946–66	101	4 19 0	4 19 0
Wolverhampton 5% 1946–56	103	4 17 0	5 0 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	82	4 17 6	—
Gt. Western Rly. 5% Rent Charge	99¼	5 0 6	—
Gt. Western Rly. 5% Preference	95½	5 5 0	—
L. & N. E. Rly. 4% Debenture	75	5 6 6	—
L. & N. E. Rly. 4% Guaranteed	70¼	5 13 0	—
L. & N. E. Rly 4% 1st Preference	59¼	6 13 6	—
L. Mid. & Scot. Rly. 4% Debenture	79¼	5 1 0	—
L. Mid. & Scot. Rly. 4% Guaranteed	78	5 2 0	—
L. Mid. & Scot. Rly. 4% Preference	70½	5 13 0	—
Southern Railway 4% Debenture	79½	5 1 0	—
Southern Railway 5% Guaranteed	99¼	5 0 6	—
Southern Railway 5% Preference	90½	5 10 6	—

PROVINCIAL Solicitors desiring to open London office on favourable terms, with or without assistance, should write.—"Subscriber," R., Box 354, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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EX-OFFICERS AND OTHER RANKS.

THE Proprietors of The Solicitors' Journal have placed this space at the disposal of THE BRITISH LEGION OFFICERS' ASSOCIATION, EMPLOYMENT BUREAU, 3-4, Clement's Inn, Strand, London, W.C.2 (Telephone: Holborn 5769), to whom all replies should be addressed, quoting number of advertisement, date of insertion, and the name of this paper.

EX-REGULAR Officer, 32, educated Radley, extra horseman, light weight, desirous of schooling and conditioning stud of polo ponies; own stables 30 boxes, 50 miles London; schooled prize winners Olympia and Islington; polo ponies preferred; would consider other position of trust. 9559.

SECRETARY to Golf, Country or Social Club, requires position; thorough knowledge all departments; single; age 36; public school education; Reserve Officer; best recommendations; available immediately. 9540.

JOURNALISTIC, secretarial or other appointment desired by ex-journalist, recognised expert and manager agri-horti-cultural industries; research worker, leader writer, literary and art critic; knowledge advertising and publicity, old book trade, cataloguing, etc. 9553.

EX-OFFICER, 36, Public School, married, desires position of trust and responsibility; experienced automobile engineer, manager and salesman. Undeniable references. 9402.

MASTER Mariner, many years command sail and steam, desires post as dock cargo or marine superintendent, or transport of yachts, etc. 1428

RETIRED Regular Officer, desires employment as club or mess secretary, or similar post; knowledge of horses; can drive car. 9537.

ARTICLED CLERKS.

CLERK (25), seven years' experience, knowledge of conveyancing, probate and general practice passed Intermediate, requires new articles for two years owing to death of principal; London firm; salary required about £2 a week.—"G.C.B.," Box 479, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR, practising in London, desires to enter into an arrangement with another under which each would take the other's son under articles for 5 years.—"H.G.M.," Box 470, Solicitors' Journal, 29, Breams-buildings, E.C.4.

LAW.—Articled Clerk.—Town Clerk, Clerk of Peace, and Clerk to Assessment Committee (Midlands district) has a vacancy. Excellent opportunities.—Write "J.," Box 431, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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